PROPOSITION 30 TEMPORARY TAXES TO FUND EDUCATION. GUARANTEED LOCAL PUBLIC SAFETY FUNDING. INITIATIVE CONSTITUTIONAL AMENDMENT.

OFFICIAL TITLE AND SUMMARY **PREPARED BY THE ATTORNEY GENERAL**

TEMPORARY TAXES TO FUND EDUCATION. GUARANTEED LOCAL PUBLIC SAFETY FUNDING. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Increases personal income tax on annual earnings over $250,000 for seven years.
- Increases sales and use tax by ¼ cent for four years.
- Allocates temporary tax revenues 89% to K–12 schools and 11% to community colleges.
- Bars use of funds for administrative costs, but provides local school governing boards discretion to decide, in open meetings and subject to annual audit, how funds are to be spent.
- Guarantees funding for public safety services realigned from state to local governments.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Additional state tax revenues of about $6 billion annually from 2012–13 through 2016–17. Smaller amounts of additional revenue would be available in 2011–12, 2017–18, and 2018–19.
- These additional revenues would be available to fund programs in the state budget. Spending reductions of about $6 billion in 2012–13, mainly to education programs, would not take effect.

ANALYSIS BY THE LEGISLATIVE ANALYST

OVERVIEW

This measure temporarily increases the state sales tax rate for all taxpayers and the personal income tax (PIT) rates for upper-income taxpayers. These temporary tax increases provide additional revenues to pay for programs funded in the state budget. The state's 2012–13 budget plan—approved by the Legislature and the Governor in June 2012—assumes passage of this measure. The budget, however, also includes a backup plan that requires spending reductions (known as "trigger cuts") in the event that voters reject this measure. This measure also places into the State Constitution certain requirements related to the recent transfer of some state program responsibilities to local governments. Figure 1 summarizes the main provisions of this proposition, which are discussed in more detail below.

Figure 1

Overview of Proposition 30

State Taxes and Revenues

- Increases sales tax rate by one-quarter cent for every dollar for four years.
- Increases personal income tax rates on upper-income taxpayers for seven years.
- Raises about $6 billion in additional annual state revenues from 2012–13 through 2016–17, with smaller amounts in 2011–12, 2017–18, and 2018–19.

State Spending

- If approved by voters, additional revenues available to help balance state budget through 2018–19.
- If rejected by voters, 2012–13 budget reduced by $6 billion. State revenues lower through 2018–19.

Local Government Programs

- Guarantees local governments receive tax revenues annually to fund program responsibilities transferred to them by the state in 2011.

STATE TAXES AND REVENUES

Background

The General Fund is the state's main operating account. In the 2010–11 fiscal year (which ran from July 1, 2010 to June 30, 2011), the General Fund's total revenues were $93 billion. The General Fund's three largest revenue sources are the PIT, the sales tax, and the corporate income tax.

Sales Tax. Sales tax rates in California differ by locality. Currently, the average sales tax rate is just over 8 percent. A portion of sales tax revenues goes to the state, while the rest is allocated to local governments. The state General Fund received $27 billion of sales tax revenues during the 2010–11 fiscal year.

Personal Income Tax. The PIT is a tax on wage, business, investment, and other income of individuals and families. State PIT rates range from 1 percent to 9.3 percent on the portions of a taxpayer's income in each of several income brackets. (These are referred to as marginal tax rates.) Higher marginal tax rates are charged as income increases. The tax revenue generated from this tax—totaling $49.4 billion during the 2010–11 fiscal year—is deposited into the state's General Fund. In addition, an extra 1 percent tax applies to annual income over $1 million (with the associated revenue dedicated to mental health services).

Proposal

Increases Sales Tax Rate From 2013 Through 2016. This measure temporarily increases the statewide sales tax rate by one-quarter cent for every dollar of goods purchased. This higher tax rate would be in effect for four years—from January 1, 2013 through the end of 2016.

Increases Personal Income Tax Rates From 2012 Through 2018. As shown in Figure 2, this measure increases the existing 9.3 percent PIT rates on higher incomes. The additional marginal tax rates would increase as taxable income increases. For joint filers, for example, an additional 1 percent marginal tax rate would be imposed on income between $500,000 and $600,000 per year, increasing the total rate to 10.3 percent. Similarly, an additional 2 percent marginal tax rate would be imposed on income between $600,000 and $1 million, and an additional 3 percent marginal tax rate would be imposed on income above $1 million, increasing the total rates on these income brackets to 11.3 percent and 12.3 percent, respectively. These new tax rates would affect about 1 percent of California PIT filers. (These taxpayers currently pay about 40 percent of state personal income taxes.) The tax rates would be in effect for seven years—

Figure 2

Current and Proposed Personal Income Tax Rates Under Proposition 30

Single Filer's Taxable Income[a]	Joint Filers' Taxable Income[a]	Head-of-Household Filer's Taxable Income[a]	Current Marginal Tax Rate[b]	Proposed Additional Marginal Tax Rate[b]
$0–$7,316	$0–$14,632	$0–$14,642	1.0%	—
7,316–17,346	14,632–34,692	14,642–34,692	2.0	—
17,346–27,377	34,692–54,754	34,692–44,721	4.0	—
27,377–38,004	54,754–76,008	44,721–55,348	6.0	—
38,004–48,029	76,008–96,058	55,348–65,376	8.0	—
48,029–250,000	96,058–500,000	65,376–340,000	9.3	—
250,000–300,000	500,000–600,000	340,000–408,000	9.3	1.0%
300,000–500,000	600,000–1,000,000	408,000–680,000	9.3	2.0
Over 500,000	Over 1,000,000	Over 680,000	9.3	3.0

[a] Income brackets shown were in effect for 2011 and will be adjusted for inflation in future years. Single filers also include married individuals and registered domestic partners (RDPs) who file taxes separately. Joint filers include married and RDP couples who file jointly, as well as qualified widows or widowers with a dependent child.

[b] Marginal tax rates apply to taxable income in each tax bracket listed. The proposed additional tax rates would take effect beginning in 2012 and end in 2018. Current tax rates listed exclude the mental health tax rate of 1 percent for taxable income in excess of $1 million.

For text of Proposition 30, see page 80.

starting in the 2012 tax year and ending at the conclusion of the 2018 tax year. (Because the rate increase would apply as of January 1, 2012, affected taxpayers likely would have to make larger payments in the coming months to account for the full-year effect of the rate increase.) The additional 1 percent rate for mental health services would still apply to income in excess of $1 million. Proposition 30's rate changes, therefore, would increase these taxpayers' marginal PIT rate from 10.3 percent to 13.3 percent. Proposition 38 on this ballot would also increase PIT rates. The nearby box describes what would happen if both measures are approved.

What Happens if Voters Approve Both Proposition 30 and Proposition 38?

State Constitution Specifies What Happens if Two Measures Conflict. If provisions of two measures approved on the same statewide ballot conflict, the Constitution specifies that the provisions of the measure receiving more "yes" votes prevail. Proposition 30 and Proposition 38 on this statewide ballot both increase personal income tax (PIT) rates and, as such, could be viewed as conflicting.

Measures State That Only One Set of Tax Increases Goes Into Effect. Proposition 30 and Proposition 38 both contain sections intended to clarify which provisions are to become effective if both measures pass:

- ***If Proposition 30 Receives More Yes Votes.*** Proposition 30 contains a section indicating that its provisions would prevail in their entirety and none of the provisions of any other measure increasing PIT rates—in this case Proposition 38—would go into effect.
- ***If Proposition 38 Receives More Yes Votes.*** Proposition 38 contains a section indicating that its provisions would prevail and the tax rate provisions of any other measure affecting sales or PIT rates—in this case Proposition 30—would not go into effect. Under this scenario, the spending reductions known as the "trigger cuts" would take effect as a result of Proposition 30's tax increases not going into effect.

Fiscal Effect

Additional State Revenues Through 2018–19. Over the five fiscal years in which both the sales tax and PIT increases would be in effect (2012–13 through 2016–17), the average annual state revenue gain resulting from this measure's tax increases is estimated at around $6 billion. Smaller revenue increases are likely in 2011–12, 2017–18, and 2018–19 due to the phasing in and phasing out of the higher tax rates.

Revenues Could Change Significantly From Year to Year. The revenues raised by this measure could be subject to multibillion-dollar swings—either above or below the revenues projected above. This is because the vast majority of the additional revenue from this measure would come from the PIT rate increases on upper-income taxpayers. Most income reported by upper-income taxpayers is related in some way to their investments and businesses, rather than wages and salaries. While wages and salaries for upper-income taxpayers fluctuate to some extent, their investment income may change significantly from one year to the next depending upon the performance of the stock market, housing prices, and the economy. For example, the current mental health tax on income over $1 million generated about $730 million in 2009–10 but raised more than twice that amount in previous years. Due to these swings in the income of these taxpayers and the uncertainty of their responses to the rate increases, the revenues raised by this measure are difficult to estimate.

STATE SPENDING

Background

State General Fund Supports Many Public Programs. Revenues deposited into the General Fund support a variety of programs—including public schools, public universities, health programs, social services, and prisons. School spending is the largest part of the state budget. Earlier propositions passed by state voters require the state to provide a minimum annual amount—commonly called the Proposition 98 minimum guarantee—for schools (kindergarten through high school) and community colleges (together referred to as K–14 education). The minimum guarantee is funded through a combination of state General Fund and local property tax revenues. In many years, the calculation of the minimum guarantee is highly sensitive to changes in state General Fund revenues. In years when General Fund revenues grow by a large amount, the guarantee is likely to increase by a large amount. A large share of the state and local funding that is allocated to schools and community colleges is "unrestricted," meaning that they may use the funds for any educational purpose.

Proposal

New Tax Revenues Available to Fund Schools and Help Balance the Budget. The revenue generated by the measure's temporary tax increases would be included in the calculations of the Proposition 98 minimum guarantee—raising the guarantee by billions of dollars each year. A portion of the new revenues therefore would be used to support higher school funding, with the remainder helping

to balance the state budget. From an accounting perspective, the new revenues would be deposited into a newly created state account called the Education Protection Account (EPA). Of the funds in the account, 89 percent would be provided to schools and 11 percent to community colleges. Schools and community colleges could use these funds for any educational purpose. The funds would be distributed the same way as existing unrestricted per-student funding, except that no school district would receive less than $200 in EPA funds per student and no community college district would receive less than $100 in EPA funds per full-time student.

Fiscal Effect if Measure Is Approved

2012–13 Budget Plan Relies on Voter Approval of This Measure. The Legislature and the Governor adopted a budget plan in June to address a substantial projected budget deficit for the 2012–13 fiscal year as well as projected budget deficits in future years. The 2012–13 budget plan (1) assumes that voters approve this measure and (2) spends the resulting revenues on various state programs. A large share of the revenues generated by this measure is spent on schools and community colleges. This helps explain the large increase in funding for schools and community colleges in 2012–13—a $6.6 billion increase (14 percent) over 2011–12. Almost all of this increase is used to pay K–14 expenses from the previous year and reduce delays in some state K–14 payments. Given the large projected budget deficit, the budget plan also includes actions to constrain spending in some health and social services programs, decrease state employee compensation, use one-time funds, and borrow from other state accounts.

Effect on Budgets Through 2018–19. This measure's additional tax revenues would be available to help balance the state budget through 2018–19. The additional revenues from this measure provide several billion dollars annually through 2018–19 that would be available for a wide range of purposes—including funding existing state programs, ending K–14 education payment delays, and paying other state debts. Future actions of the Legislature and the Governor would determine the use of these funds. At the same time, due to swings in the income of upper-income taxpayers, potential state revenue fluctuations under this measure could complicate state budgeting in some years. After the proposed tax increases expire, the loss of the associated tax revenues could create additional budget pressure in subsequent years.

Figure 3

2012–13 Spending Reductions if Voters Reject Proposition 30

(In Millions)	
Schools and community colleges	$5,354
University of California	250
California State University	250
Department of Developmental Services	50
City police department grants	20
CalFire	10
DWR flood control programs	7
Local water safety patrol grants	5
Department of Fish and Game	4
Department of Parks and Recreation	2
DOJ law enforcement programs	1
Total	**$5,951**

DWR = Department of Water Resources; DOJ = Department of Justice.

Fiscal Effect if Measure Is Rejected

Backup Budget Plan Reduces Spending if Voters Reject This Measure. If this measure fails, the state would not receive the additional revenues generated by the proposition's tax increases. In this situation, the 2012–13 budget plan requires that its spending be reduced by $6 billion. These trigger cuts, as currently scheduled in state law, are shown in Figure 3. Almost all the reductions are to education programs—$5.4 billion to K–14 education and $500 million to public universities. Of the K–14 reductions, roughly $3 billion is a cut in unrestricted funding. Schools and community colleges could respond to this cut in various ways, including drawing down reserves, shortening the instructional year for schools, and reducing enrollment for community colleges. The remaining $2.4 billion reduction would increase the amount of late payments to schools and community colleges back to the 2011–12 level. This could affect the cash needs of schools and community colleges late in the fiscal year, potentially resulting in greater short-term borrowing.

Effect on Budgets Through 2018–19. If this measure is rejected by voters, state revenues would be billions of dollars lower each year through 2018–19 than if the measure were approved. Future actions of the Legislature and the Governor would determine how to balance the state budget at this lower level of revenues. Future state budgets could be balanced through cuts to schools or other programs, new revenues, and one-time actions.

For text of Proposition 30, see page 80.

LOCAL GOVERNMENT PROGRAMS

Background

In 2011, the state transferred the responsibility for administering and funding several programs to local governments (primarily counties). The transferred program responsibilities include incarcerating certain adult offenders, supervising parolees, and providing substance abuse treatment services. To pay for these new obligations, the Legislature passed a law transferring about $6 billion of state tax revenues to local governments annually. Most of these funds come from a shift of a portion of the sales tax from the state to local governments.

Proposal

This measure places into the Constitution certain provisions related to the 2011 transfer of state program responsibilities.

Guarantees Ongoing Revenues to Local Governments. This measure requires the state to continue providing the tax revenues redirected in 2011 (or equivalent funds) to local governments to pay for the transferred program responsibilities. The measure also permanently excludes the sales tax revenues redirected to local governments from the calculation of the minimum funding guarantee for schools and community colleges.

Restricts State Authority to Expand Program Requirements. Local governments would not be required to implement any future state laws that increase local costs to administer the program responsibilities transferred in 2011, unless the state provided additional money to pay for the increased costs.

Requires State to Share Some Unanticipated Program Costs. The measure requires the state to pay part of any new local costs that result from certain court actions and changes in federal statutes or regulations related to the transferred program responsibilities.

Eliminates Potential Mandate Funding Liability. Under the Constitution, the state must reimburse local governments when it imposes new responsibilities or "mandates" upon them. Under current law, the state could be required to provide local governments with additional funding (mandate reimbursements) to pay for some of the transferred program responsibilities. This measure specifies that the state would not be required to provide such mandate reimbursements.

Ends State Reimbursement of Open Meeting Act Costs. The Ralph M. Brown Act requires that all meetings of local legislative bodies be open and public. In the past, the state has reimbursed local governments for costs resulting from certain provisions of the Brown Act (such as the requirement to prepare and post agendas for public meetings). This measure specifies that the state would not be responsible for paying local agencies for the costs of following the open meeting procedures in the Brown Act.

Fiscal Effects

State Government. State costs could be higher for the transferred programs than they otherwise would have been because this measure (1) guarantees that the state will continue providing funds to local governments to pay for them, (2) requires the state to share part of the costs associated with future federal law changes and court cases, and (3) authorizes local governments to refuse to implement new state laws and regulations that increase their costs unless the state provides additional funds. These potential costs would be offset in part by the measure's provisions eliminating any potential state mandate liability from the 2011 program transfer and Brown Act procedures. The net fiscal effect of these provisions is not possible to determine and would depend on future actions by elected officials and the courts.

Local Government. The factors discussed above would have the opposite fiscal effect on local governments. That is, local government revenues could be higher than they otherwise would have been because the state would be required to (1) continue providing funds to local governments to pay for the program responsibilities transferred in 2011 and (2) pay all or part of the costs associated with future federal and state law changes and court cases. These increased local revenues would be offset in part by the measure's provisions eliminating local government authority to receive mandate reimbursements for the 2011 program shift and Brown Act procedures. The net fiscal effect of these provisions is not possible to determine and would depend on future actions by elected officials and the courts.

SUMMARY

If voters approve this measure, the state sales tax rate would increase for four years and PIT rates would increase for seven years, generating an estimated $6 billion annually in additional state revenues, on average, between 2012–13 and 2016–17. (Smaller revenue increases are likely for the 2011–12, 2017–18, and 2018–19 fiscal years.) These revenues would be used to help fund the state's 2012–13 budget plan and would be available to help balance the budget over the next seven years. The measure also would guarantee that local governments continue to annually receive the share of state tax revenues transferred in 2011 to pay for the shift of some state program responsibilities to local governments.

If voters reject this measure, state sales tax and PIT rates would not increase. Because funds from these tax increases would not be available to help fund the state's 2012–13 budget plan, state spending in 2012–13 would be reduced by about $6 billion, with almost all the reductions related to education. In future years, state revenues would be billions of dollars lower than if the measure were approved.

For text of Proposition 30, see page 80.

PROPOSITION
31 STATE BUDGET. STATE AND LOCAL GOVERNMENT. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

STATE BUDGET. STATE AND LOCAL GOVERNMENT. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

- Establishes two-year state budget cycle.
- Prohibits Legislature from creating expenditures of more than $25 million unless offsetting revenues or spending cuts are identified.
- Permits Governor to cut budget unilaterally during declared fiscal emergencies if Legislature fails to act.
- Requires performance reviews of all state programs.
- Requires performance goals in state and local budgets.
- Requires publication of bills at least three days prior to legislative vote.
- Allows local governments to alter how laws governing state-funded programs apply to them, unless Legislature or state agency vetoes change within 60 days.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Decreased state sales tax revenues of about $200 million annually, with a corresponding increase of funding to certain local governments.
- Other, potentially more significant changes in state and local spending and revenues, the magnitude of which would depend on future decisions by public officials.

ANALYSIS BY THE LEGISLATIVE ANALYST

OVERVIEW

This measure changes certain responsibilities of local governments, the Legislature, and the Governor. It also changes some aspects of state and local government operations. Figure 1 summarizes the measure's main provisions, each of which are discussed in more detail below.

AUTHORIZES AND FUNDS LOCAL GOVERNMENT PLANS

Proposal

Allows Local Governments to Develop New Plans. Under this measure, counties and other local governments (such as cities, school districts, community college districts, and special districts) could create plans for coordinating how they provide services to the public. The plans could address how local governments deliver services in many areas, including economic development, education, social services, public safety, and public health. Each plan would have to be approved by the governing boards of the (1) county, (2) school districts serving a majority of the county's students, and (3) other local governments representing a majority of the county's population. Local agencies would receive some funding from the state to implement the plans (as described below).

Allows Local Governments to Alter Administration of State-Funded Programs. If local governments find that a state law or regulation restricts their ability to carry out their plan, they could develop local procedures that are "functionally equivalent" to the objectives of the existing state law or regulation. Local governments could follow

these local procedures—instead of state laws or regulations—in administering state programs financed with state funds. The Legislature (in the case of state laws) or the relevant state department (in the case of state regulations) would have an opportunity to reject these alternate local procedures. The locally developed procedures would expire after four years unless renewed through the same process.

Allows Transfer of Local Property Taxes. California taxpayers pay about $50 billion in property taxes to local governments annually. State law governs how property taxes are divided among local government entities in each county. This measure allows local governments participating in plans to transfer property taxes allocated to them among themselves in any way that they choose. Each local government affected would have to approve the change with a two-thirds vote of its governing board.

Shifts Some State Sales Tax Revenues to Local Governments. Currently, the average sales tax rate in the state is just over 8 percent. This raised $42.2 billion in 2009–10, with the revenues allocated roughly equally to the state and local governments. Beginning in the 2013–14 fiscal year, the measure would shift a small part of the state's portion to counties that implement the new plans. This would not change sales taxes paid by taxpayers. The shift would increase revenues of the participating local governments in counties with plans by a total of about $200 million annually in the near term. The state government would lose a corresponding amount, which would no longer be available to fund state programs. The sales taxes would be allocated to participating counties based on their population. The measure requires a local plan to provide for the distribution of these and any other funds intended to support implementation of the local plan.

Figure 1

Major Provisions of Proposition 31

✓ **Authorizes and Funds Local Government Plans**
- Transfers some state revenues to counties in which local governments implement plans to coordinate their public services.
- Allows these local governments to develop their own procedures for administering state-funded programs.
- Allows these local governments to transfer local property taxes among themselves.

✓ **Restricts Legislature's Ability to Pass Certain Bills**
- Restricts the Legislature's ability to pass certain bills that increase state costs or decrease revenues unless new funding sources and/or spending reductions are identified.
  - Exempts various types of bills from the above requirement.
- Requires almost all bills and amendments to be available to the public at least three days before legislative approval.

✓ **Expands Governor's Ability to Reduce State Spending**
- Allows the Governor to reduce spending during state fiscal emergencies in certain situations.

✓ **Changes Public Budgeting and Oversight Procedures**
- Changes the annual state budget process to a two-year state budget process.
- Requires the Legislature to set aside part of each two-year session for legislative oversight of public programs.
- Requires state and local governments to evaluate the effectiveness of programs and describe how their budgets meet various objectives.

For text of Proposition 31, see page 84.

Fiscal Effects

In addition to the shift of the $200 million described earlier, there would be other fiscal effects on state and local governments. For example, allowing local governments to develop their own procedures for administering state-funded programs could lead to potentially different program outcomes and state or local costs than would have occurred otherwise. Allowing local governments to transfer property taxes could affect how much money goes to a given local government, but would not change the total amount paid by property taxpayers. Local governments also likely would spend small additional amounts to create and administer their new plans. The changes that would result from this part of the measure depend on (1) how many counties create plans, (2) how many local governments alter the way they administer state-funded programs, and (3) the results of their activities. For those reasons, the net fiscal effect of this measure for the state and local governments cannot be predicted. In some counties, these effects could be significant.

RESTRICTS LEGISLATURE'S ABILITY TO PASS CERTAIN BILLS

Current Law

Budget and Other Bills. Each year, the Legislature and the Governor approve the state budget bill and other bills. The budget bill allows for spending from the General Fund and many other state accounts. (The General Fund is the state's main operating account that provides funding to education, health, social services, prisons, and other programs.) In general, a majority vote of both houses of the Legislature (the Senate and the Assembly) is required for the approval of the budget bill and most other bills. A two-thirds vote in both houses, however, is required to increase state taxes.

As part of their usual process for considering new laws, the Legislature and Governor review estimates of each proposed law's effects on state spending and revenues. While the State Constitution does not mandate that the state identify how each new law would be financed, it requires that the state's overall budget be balanced. Specifically, every year when the state adopts its budget, the state must show that estimated General Fund revenues will meet or exceed approved General Fund spending.

Proposal

Restricts Legislature's Ability to Increase State Costs. This measure requires the Legislature to show how some bills that increase state spending by more than $25 million in any fiscal year would be paid for with spending reductions, revenue increases, or a combination of both. The requirement applies to bills that create new state departments or programs, expand current state departments or programs, or create state-mandated local programs. Exemptions from these requirements include bills that allow one-time spending for a state department or program, increase funding for a department or program due to increases in workload or the cost of living, provide funding required by federal law, or increase the pay or other compensation of state employees pursuant to a

collective bargaining agreement. The measure also exempts bills that restore funding to state programs reduced to help balance the state budget in any year after 2008–09.

Restricts Legislature's Ability to Decrease State Revenues. This measure also requires the Legislature to show how bills that decrease state taxes or other revenues by more than $25 million in any fiscal year would be paid for with spending reductions, revenue increases, or a combination of both.

Changes When Legislature Can Pass Bills. This measure makes other changes that could affect when the Legislature could pass bills. For example, the measure requires the Legislature to make bills and amendments to those bills available to the public for at least three days before voting to pass them (except certain bills responding to a natural disaster or terrorist attack).

Fiscal Effects

This measure would make it more difficult for the Legislature to pass some bills that increase state spending or decrease revenues. Restricting the Legislature's ability in this way could result in state funds spent on public services being less—or taxes and fees being more—than otherwise would be the case. Because the fiscal effect of this part of the measure depends on future decisions by the Legislature, the effect cannot be predicted, but it could be significant over time. Because the state provides significant funding to local governments, they also could be affected over time.

EXPANDS GOVERNOR'S ABILITY TO REDUCE STATE SPENDING

Current Law

Under Proposition 58 (2004), after the budget bill is approved, the Governor may declare a state fiscal emergency if he or she determines the state is facing large revenue shortfalls or spending overruns. When a fiscal emergency is declared, the Governor must call the Legislature into special session and propose actions to address the fiscal emergency. The Legislature has 45 days to consider its response. The Governor's powers to cut state spending, however, currently are very limited even if the Legislature does not act during that 45-day period.

Proposal

Allows Governor to Reduce Spending in Certain Situations. Under this measure, if the Legislature does not pass legislation to address a fiscal emergency within 45 days, the Governor could reduce some General Fund spending. The Governor could not reduce spending that is required by the Constitution or federal law—such as most school spending, debt service, pension contributions, and some spending for health and social services programs. (These categories currently account for a majority of General Fund spending.) The total amount of the reductions could not exceed the amount necessary to balance the budget. The Legislature could override all or part of the reductions by a two-thirds vote in both of its houses.

For text of Proposition 31, see page 84.

Fiscal Effects

Expanding the Governor's ability to reduce spending could result in overall state spending being lower than it would have been otherwise. The fiscal effect of this change cannot be predicted, but could be significant in some years. Local government budgets also could be affected by lower state spending.

CHANGES PUBLIC BUDGETING AND OVERSIGHT PROCEDURES

Proposal

Changes Annual State Budget Process to a Two-Year Process. This measure changes the state budget process from a one-year (annual) process to a two-year (biennial) process. Every two years beginning in 2015, the Governor would submit a budget proposal for the following two fiscal years. For example, in January 2015 the Governor would propose a budget for the fiscal year beginning in July 2015 and the fiscal year beginning in July 2016. Every two years beginning in 2016, the Governor could submit a proposed budget update. The measure does not change the Legislature's current constitutional deadline of June 15 for passing a budget bill.

Sets Aside Specific Time Period for Legislative Oversight of Public Programs. Currently, the Legislature oversees and reviews the activities of state and local programs at various times throughout its two-year session. This measure requires the Legislature to reserve a part of its two-year session—beginning in July of the second year of the session—for oversight and review of public programs. Specifically, the measure requires the Legislature to create a process and use it to review every state-funded program—whether managed by the state or local governments—at least once every five years. While conducting this oversight, the Legislature could not pass bills except for those that (1) take effect immediately (which generally require a two-thirds vote of both houses) or (2) override a Governor's veto (which also require a two-thirds vote of both houses).

Imposes New State and Local Budgeting Requirements. Currently, state and local governments have broad flexibility in determining how to evaluate operations of their public programs. This measure imposes some general requirements for state and local governments to include new items in their budgets. Specifically, governments would have to evaluate the effectiveness of their programs and describe how their budgets meet various objectives. State and local governments would have to report on their progress in meeting those objectives.

Fiscal Effects

State and local governments would experience increased costs to set up systems to implement the new budgeting requirements and to administer the new evaluation requirements. These costs would vary based on how state and local officials implemented the requirements. Statewide, the costs would likely

range from **millions to tens of millions of dollars annually,** moderating over time. These new budgeting and evaluation requirements could affect decision making in a variety of ways—such as, reprioritization of spending, program efficiencies, and additional investments in some program areas. The fiscal impact on governments cannot be predicted.

SUMMARY OF MEASURE'S FISCAL EFFECTS

As summarized in Figure 2, the measure would shift some state sales tax revenues to counties that implement local plans. This shift would result in a decrease in state revenues of $200 million annually, with a corresponding increase of funding to local governments in those counties. The net effects of this measure's other state and local fiscal changes generally would depend on future decisions by public officials and, therefore, are difficult to predict. Over the long term, these other changes in state and local spending or revenues could be more significant than the $200 million shift of sales tax revenues discussed above.

Figure 2

Major Fiscal Effects of Proposition 31

	State Government	Local Government
Authorizes and Funds Local Government Plans		
Funding for plans	$200 million annual reduction in revenues.	$200 million annual increase in revenues to local governments in counties that develop plans.
Effects of the new plans	Cannot be predicted, but potentially significant.	Cannot be predicted, but potentially significant in some counties.
Restricts Legislature's Ability to Pass Certain Bills	Potentially lower spending—or higher revenues—based on future actions of the Legislature.	Potential changes in state funding for local programs based on future actions of the Legislature.
Expands Governor's Ability to Reduce State Spending	Potentially lower spending in some years.	Potentially less state funding for local programs in some years.
Changes Public Budgeting and Oversight Procedures		
Implementation costs	Potentially millions to tens of millions of dollars annually, moderating over time.	Potentially millions to tens of millions of dollars annually, moderating over time.
Effects of new requirements	Cannot be predicted.	Cannot be predicted.

For text of Proposition 31, see page 84.

PROPOSITION
32 POLITICAL CONTRIBUTIONS BY PAYROLL DEDUCTION. CONTRIBUTIONS TO CANDIDATES. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

POLITICAL CONTRIBUTIONS BY PAYROLL DEDUCTION. CONTRIBUTIONS TO CANDIDATES. INITIATIVE STATUTE.

- Prohibits unions from using payroll-deducted funds for political purposes. Applies same use prohibition to payroll deductions, if any, by corporations or government contractors.
- Permits voluntary employee contributions to employer-sponsored committee or union if authorized yearly, in writing.
- Prohibits unions and corporations from contributing directly or indirectly to candidates and candidate-controlled committees.
- Other political expenditures remain unrestricted, including corporate expenditures from available resources not limited by payroll deduction prohibition.
- Prohibits government contractor contributions to elected officers or officer-controlled committees.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased costs to state and local government—potentially exceeding $1 million annually—to implement and enforce the measure's requirements.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Political Reform Act. California's Political Reform Act of 1974, an initiative adopted by the voters, established the state's campaign finance and disclosure laws. The act applies to state and local candidates, ballot measures, and officials, but does not apply to federal candidates or officials. The state's Fair Political Practices Commission (FPPC) (1) enforces the requirements of the act, including investigating alleged violations, and (2) provides administrative guidance to the public by issuing advice and opinions regarding FPPC's interpretation of the act.

Local Campaign Finance Laws. In addition to the requirements established by the act, some local governments have campaign finance and disclosure requirements for local candidates, ballot measures, and officials. These ordinances are established and enforced by the local government.

Political Spending. Many individuals, groups, and businesses spend money to support or oppose state and local candidates or ballot measures. This political spending can take different forms, including contributing money to candidates or committees, donating services to campaigns, and producing ads to communicate opinions. Under state campaign finance laws, there are three types of political spending:

- ***Political Contributions.*** The term political "contribution" generally includes giving money, goods, or services (1) directly to a candidate, (2) at the request of a candidate, or (3) to a committee that uses these resources to support or oppose a candidate or ballot measure. Current law limits the amount of political contributions that individuals, groups, and businesses may give to a state candidate (or to committees that give money to a state candidate). In 2012, for example, an individual, group, or business could contribute up to $26,000 to a candidate for Governor and up to $3,900 to a candidate for a legislative office. In addition, current law requires political contributions to be disclosed to state or local election officials.
- ***Independent Expenditures.*** Money spent to communicate support or opposition of a candidate or ballot measure generally is considered an independent expenditure if the funds are spent in a way that is not coordinated with (1) a candidate or (2) a committee established to support or oppose a candidate or a ballot measure. For example, developing a television commercial urging voters to "vote for" a candidate is an independent expenditure if the commercial is made without coordination with the candidate's campaign. Current law does not limit the amount of money individuals, groups, and businesses may spend on independent expenditures. These expenditures, however, must be disclosed to election officials.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

- ***Other Political Spending.*** Some political spending is not considered a political contribution or an independent expenditure. This broad category includes "member communications"—spending by an organization to communicate political endorsements to its members, employees, or shareholders. This spending is not limited by state law and need not be disclosed to election officials.

Payroll Deductions. Under limited circumstances, employers may withhold money from an employee's paycheck. The withheld funds are called "payroll deductions." Some common payroll deductions include deductions for Social Security, income taxes, medical plans, and voluntary charitable contributions.

Union Dues and Fees. Approximately 2.5 million workers in California are represented by a labor union. Unions represent employees in the collective bargaining process, by which they negotiate terms and conditions of employment with employers. Generally, unions pay for their activities with money raised from (1) dues charged to union members and (2) fair share fees paid by non-union members who the union represents in the collective bargaining process. In many cases, employers automatically deduct these dues and fees from their employees' paychecks and transfer the money to the unions.

Payroll Deductions Used to Finance Political Spending. Many unions use some of the funds that they receive from payroll deductions to support activities not directly related to the collective bargaining process. These expenditures may include political contributions and independent expenditures—as well as spending to communicate political views to union members. Non-union members may opt out from having their fair share fees used to pay for this political spending and other spending not related to collective bargaining. Other than unions, relatively few organizations currently use payroll deductions to finance political spending in California.

PROPOSAL

The measure changes state campaign finance laws to restrict state and local campaign spending by:

- Public and private sector labor unions.
- Corporations.
- Government contractors.

These restrictions do not affect campaign spending for federal offices such as the President of the United States and members of Congress.

Bans Use of Payroll Deductions to Finance Spending for Political Purposes. The measure prohibits unions, corporations, government contractors, and state and local government employers from spending money deducted from an employee's paycheck for "political purposes." Under the measure, this term would include political contributions, independent expenditures, member communications related to campaigns, and other expenditures to influence voters. This measure would not affect unions' existing authority to use payroll deductions to pay for other activities, including collective bargaining and political spending in federal campaigns.

Prohibits Political Contributions by Corporations and Unions. The measure prohibits corporations and unions from making political contributions to candidates. That is, they could not make contributions (1) directly to candidates or (2) to committees that then make contributions to candidates. This prohibition, however, does not affect a corporation or union's ability to spend money on independent expenditures.

Limits Authority of Government Contractors to Contribute to Elected Officials. The measure prohibits government contractors (including public sector labor unions with collective bargaining contracts) from making contributions to elected officials who play a role in awarding their contracts. Specifically, government contractors could not make contributions to these elected officials from the time their contract is being considered until the date their contract expires.

FISCAL EFFECTS

The state would experience increased costs to investigate alleged violations of the law and to respond to requests for advice. In addition, state and local governments would experience some other increased administrative costs. Combined, these costs could exceed **$1 million annually**.

For text of Proposition 32, see page 93.

PROPOSITION
33 AUTO INSURANCE COMPANIES. PRICES BASED ON DRIVER'S HISTORY OF INSURANCE COVERAGE. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

AUTO INSURANCE COMPANIES. PRICES BASED ON DRIVER'S HISTORY OF INSURANCE COVERAGE. INITIATIVE STATUTE.

- Changes current law to allow insurance companies to set prices based on whether the driver previously carried auto insurance with any insurance company.
- Allows insurance companies to give proportional discounts to drivers with some history of prior insurance coverage.
- Will allow insurance companies to increase cost of insurance to drivers who have not maintained continuous coverage.
- Treats drivers with lapse as continuously covered if lapse is due to military service or loss of employment, or if lapse is less than 90 days.

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Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Probably no significant fiscal effect on state insurance premium tax revenues.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Automobile insurance is one of the major types of insurance purchased by California residents. It accounted for about $21 billion (40 percent) of all premiums collected by California insurers in 2011.

State Regulation of Automobile Insurance. In 1988, California voters passed Proposition 103, which requires the Insurance Commissioner to review and approve rate changes for certain types of insurance, including automobile insurance, before changes to the rates can take effect. Proposition 103 also requires that rates and premiums for automobile insurance policies be set by applying the following rating factors in decreasing order of importance: (1) the insured's driving safety record, (2) the number of miles they drive each year, and (3) the number of years they have been driving.

The Insurance Commissioner may adopt additional rating factors to determine automobile rates and premiums. Currently, 16 optional rating factors may be used for these purposes. For example, insurance companies may provide discounts to individuals for maintaining coverage with them. Insurance companies are prohibited, however, from offering this kind of discount to new customers who switch to them from other insurers.

Insurance Premium Tax. Insurance companies doing business in California currently pay an insurance premium tax instead of the state corporation income tax. The premium tax is based on the amount of gross insurance premiums earned in the state each year for automobile insurance as well as for other types of insurance coverage. In 2011, insurance companies paid about $500 million in premium tax revenues on automobile policies in California. These revenues are deposited into the state General Fund.

PROPOSAL

This measure allows an insurance company to offer a "continuous coverage" discount on automobile insurance policies to new customers who switch their coverage from another insurer. Under this measure, continuous coverage generally means uninterrupted automobile insurance coverage with any insurer. Consumers with a lapse

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

in coverage would still be eligible for this discount, however, if the lapse was:

- Not more than 90 days in the past five years for any reason.
- For no more than 18 months in the last five years due to loss of employment resulting from layoff or furlough.
- Due to active military service.

Also, children residing with a parent could qualify for the discount based on their parent's eligibility.

If an insurance company chose to provide such a discount, it would be provided on a proportional basis. The discount would be based on the number of years in the immediate previous five years (rounded to a whole number) that the customer was insured. For example, if a customer was able to demonstrate that he or she had coverage for three of the five previous years, the customer would receive 60 percent of the total continuous coverage discount.

FISCAL EFFECTS

This measure could result in a change in the total amount of automobile insurance premiums earned by insurance companies in California and, therefore, the amount of premium tax revenues received by the state. For example, introducing continuous coverage discounts could reduce the amount of premiums paid by those who are eligible for the discounts. However, this would generally be made up by additional premiums paid by those who are not eligible for such discounts. The net impact on state premium tax revenues from this measure would probably not be significant.

For text of Proposition 33, see page 94.

PROPOSITION
34 DEATH PENALTY. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY **PREPARED BY THE ATTORNEY GENERAL**

DEATH PENALTY. INITIATIVE STATUTE.

- Repeals death penalty as maximum punishment for persons found guilty of murder and replaces it with life imprisonment without possibility of parole.
- Applies retroactively to persons already sentenced to death.
- States that persons found guilty of murder must work while in prison as prescribed by the Department of Corrections and Rehabilitation, with their wages subject to deductions to be applied to any victim restitution fines or orders against them.
- Directs $100 million to law enforcement agencies for investigations of homicide and rape cases.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- State and county savings related to murder trials, death penalty appeals, and corrections of about $100 million annually in the first few years, growing to about $130 million annually thereafter. This estimate could be higher or lower by tens of millions of dollars, largely depending on how the measure is implemented and the rate at which offenders would otherwise be sentenced to death and executed in the future.
- One-time state costs totaling $100 million for grants to local law enforcement agencies to be paid over the next four years.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Murder and the Death Penalty. First degree murder is generally defined as the unlawful killing of a human being that (1) is deliberate and premeditated or (2) takes place at the same time as certain other crimes, such as kidnapping. It is punishable by a life sentence in state prison with the possibility of being released by the state parole board after a minimum of 25 years. However, current state law makes first degree murder punishable by death or life imprisonment without the possibility of parole when specified "special circumstances" of the crime have been charged and proven in court. Existing state law identifies a number of special circumstances that can be charged, such as in cases when the murder was carried out for financial gain, was especially cruel, or was committed while the defendant was engaged in other specified criminal activities. A jury generally determines which penalty is to be applied when special circumstances have been charged and proven.

Implementation of the Death Penalty in California. Murder trials where the death penalty is sought are divided into two phases. The first phase involves determining whether the defendant is guilty of murder and any charged special circumstances, while the second phase involves determining whether the death penalty should be imposed. Under existing state law, death penalty verdicts are automatically appealed to the California Supreme Court. In these "direct appeals," the defendants' attorneys argue that violations of state law or federal constitutional law took place during the trial, such as evidence improperly being included or excluded from the trial. If the California Supreme Court confirms the conviction and death sentence, the defendant can ask the U.S. Supreme Court to review the decision. In addition to direct appeals, death penalty cases ordinarily involve extensive legal challenges in both state and federal courts. These challenges involve factors of the case different from those considered in direct appeals (such as the claim that the defendant's counsel was ineffective) and are commonly referred to as "habeas corpus" petitions. Finally, inmates who have received a sentence of death may also request that the Governor reduce their sentence. Currently, the proceedings that follow a death sentence can take a couple of decades to complete in California.

Both the state and county governments incur costs related to murder trials, including costs for the courts and prosecution, as well as for the defense of persons charged with murder who cannot afford legal

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

representation. In addition, the state incurs costs for attorneys employed by the state Department of Justice that seek to uphold death sentences in the appeals process. Various state agencies (including the Office of the State Public Defender and the Habeas Corpus Resource Center) are tasked with providing representation to individuals who have received a sentence of death but cannot afford legal representation.

Since the current death penalty law was enacted in California in 1978, around 900 individuals have received a death sentence. Of these, 14 have been executed, 83 have died prior to being executed, and about 75 have had their sentences reduced by the courts. As of July 2012, California had 725 offenders in state prison who were sentenced to death. Most of these offenders are at various stages of the direct appeal or habeas corpus review process. Condemned male inmates generally are housed at San Quentin State Prison (on death row), while condemned female inmates are housed at the Central California Women's Facility in Chowchilla. The state currently has various security regulations and procedures that result in increased security costs for these inmates. For example, inmates under a death sentence generally are handcuffed and escorted at all times by one or two officers while outside of their cells. In addition, these offenders are currently required to be placed in separate cells, whereas most other inmates share cells.

PROPOSAL

This measure repeals the state's current death penalty statute. In addition, it generally requires murderers to work while in prison and provides new state funding for local law enforcement on a limited-term basis.

Elimination of Death Sentences. Under this measure no offender could be sentenced to death by the state. The measure also specifies that offenders currently under a sentence of death would not be executed and instead would be resentenced to a prison term of life without the possibility of parole. This measure also allows the California Supreme Court to transfer all of its existing death penalty direct appeals and habeas corpus petitions to the state's Courts of Appeal or superior courts. These courts would resolve issues remaining even after changing these sentences to life without the possibility of parole.

Inmate Work Requirement. Current state law generally requires that inmates—including murderers—work while they are in prison. California regulations allow for some exceptions to these work requirements, such as for inmates who pose too great a security risk to participate in work programs. In addition, inmates may be required by the courts to make payments to victims of crime. This measure specifies that every person found guilty of murder must work while in state prison and have their pay deducted for any debts they owe to victims of crime, subject to state regulations. Because the measure does not change state regulations, existing prison practices related to inmate work requirements would not necessarily be changed.

Establishment of Fund for Local Law Enforcement. The measure establishes a new special fund, called the SAFE California Fund, to support grants to police departments, sheriffs' departments, and district attorneys' offices for the purpose of increasing the rate at which homicide and rapes are solved. For example, the measure specifies that the money could be used to increase staffing in homicide and sex offense investigation or prosecution units. Under the measure, a total of $100 million would be transferred from the state General Fund to the SAFE California Fund over four years—$10 million in 2012–13 and $30 million in each year from 2013–14 through 2015–16. Monies in the SAFE California Fund would be distributed to local law enforcement agencies based on a formula determined by the state Attorney General.

FISCAL EFFECTS

The measure would have a number of fiscal effects on the state and local governments. The major fiscal effects of the measure are discussed below.

Murder Trials

Court Proceedings. This measure would reduce state and county costs associated with some murder cases that would otherwise have been eligible for the death penalty under current law. These cases would likely be less expensive if the death penalty was no longer an option for two primary reasons. First, the duration of some trials would be shortened. This is because there would no longer be a separate phase to determine

For text of Proposition 34, see page 95.

whether the death penalty is imposed. Other aspects of murder trials could also be shortened. For example, jury selection time for some trials could be reduced as it would no longer be necessary to remove potential jurors who are unwilling to impose the death penalty. Second, the elimination of the death penalty would reduce the costs incurred by counties for prosecutors and public defenders for some murder cases. This is because these agencies generally use more attorneys in cases where a death sentence is sought and incur greater expenses related to investigations and other preparations for the penalty phase in such cases.

County Jails. County jail costs could also be reduced because of the measure's effect on murder trials. Persons held for trial on murder charges, particularly cases that could result in a death sentence, ordinarily remain in county jail until the completion of their trial and sentencing. As some murder cases are shortened due to the elimination of the death penalty, the persons being charged with murder would spend less time in county jail before being sent to state prison. Such an outcome would reduce county jail costs and increase state prison costs.

Savings. The state and counties could achieve several tens of millions of dollars in savings annually on a statewide basis from reduced costs related to murder trials. The actual amount of savings would depend on various factors, including the number of death penalty trials that would otherwise occur in the absence of the measure. It is also possible that the state and counties would redirect some of their court-related resources to other court activities. Similarly, the county jail savings would be offset to the extent that jail beds no longer needed for defendants in death penalty trials were used for other offenders, such as those who are now being released early because of a lack of jail space in some counties.

The above savings could be partially offset to the extent that the elimination of the death penalty reduced the incentive for offenders to plead guilty in exchange for a lesser sentence in some murder cases. If the death penalty is prohibited and additional cases go to trial instead of being resolved through plea agreements, additional state and county costs for support of courts, prosecution, and defense counsel, as well as county jails, could result. The extent to which this would occur is unknown.

Appellate Litigation

Over time, the measure would reduce state expenditures by the California Supreme Court and the state agencies participating in the death penalty appeal process. These state savings would reach about $50 million annually. However, these savings likely would be partially offset in the short run because some state expenditures for appeals would probably continue until the courts resolved all pending appeals for inmates who previously received death sentences. In the long run, there would be relatively minor state and local costs—possibly totaling about $1 million annually—for hearing appeals from additional offenders receiving sentences of life without the possibility of parole.

State Corrections

The elimination of the death penalty would affect state prison costs in different ways. On the one hand, its elimination would result in somewhat higher prison population and higher costs as formerly condemned inmates are sentenced to life without the possibility of parole. Given the length of time that inmates currently spend on death row, these costs would likely not be major. On the other hand, these added costs likely would be more than offset by the savings generated by not having to house hundreds of inmates on death row. As previously discussed, it is generally more expensive to house an inmate under a death sentence than an inmate subject to life without the possibility of parole, due to higher and more expensive security measures to house and supervise inmates sentenced to death.

The net effect of these fiscal impacts would likely be a net reduction in state costs for the operation of the state's prison system, potentially in the low tens of millions of dollars annually. These savings, however, could be higher or lower for various reasons. For example, if the rate of executions that were to occur in the future in the absence of the measure increased, the future cost of housing inmates who have been sentenced to death would be reduced. Therefore, there would be lower correctional savings resulting from this measure's provisions eliminating the death penalty. Alternatively, if the number of individuals sentenced to death in the future in the absence of the measure were to increase, the cost to house these individuals in

prison would also increase. Under this scenario, eliminating the death penalty would result in higher correctional savings than we have estimated.

General Fund Transfers to the SAFE California Fund

The measure requires that a total of $100 million be transferred from the state General Fund to the SAFE California Fund from 2012–13 through 2015–16. As a result, less General Fund resources would be available to support various other state programs in those years, but more funding would be available for local government agencies that receive these grants. To the extent that funding provided from the SAFE California Fund to local agencies results in additional arrests and convictions, the measure could increase state and county costs for trial court, jail, and prison operations.

Other Fiscal Effects

Prison Construction. The measure could also affect future prison construction costs by allowing the state to avoid future facility costs associated with housing an increasing number of death row inmates. However, the extent of any such savings would depend on the future growth in the condemned inmate population, how the state chooses to house condemned inmates in the future, and the future growth in the general prison population.

Effect on Murder Rate. To the extent that the prohibition on the use of the death penalty has an effect on the incidence of murder in California, the measure could affect state and local government criminal justice expenditures. The resulting fiscal impact, if any, is unknown.

Summary

In total, the measure would result in net savings to state and local governments related to murder trials, appellate litigation, and state corrections. These savings would likely be about $100 million annually in the first few years, growing to about $130 million annually thereafter. The actual amount of these annual savings could be higher or lower by tens of millions of dollars, depending on various factors including how the measure is implemented and the rate of death sentences and executions that would take place in the future if this measure were not approved by voters. In addition, the measure would require the state to provide a total of $100 million in grants to local law enforcement agencies over the next four years.

For text of Proposition 34, see page 95.

PROPOSITION
35 HUMAN TRAFFICKING. PENALTIES. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY **PREPARED BY THE ATTORNEY GENERAL**

HUMAN TRAFFICKING. PENALTIES. INITIATIVE STATUTE.

- Increases criminal penalties for human trafficking, including prison sentences up to 15-years-to-life and fines up to $1,500,000.
- Fines collected to be used for victim services and law enforcement.
- Requires person convicted of trafficking to register as sex offender.
- Requires sex offenders to provide information regarding Internet access and identities they use in online activities.
- Prohibits evidence that victim engaged in sexual conduct from being used against victim in court proceedings.
- Requires human trafficking training for police officers.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased costs, not likely to exceed a couple million dollars annually, to state and local governments for criminal justice activities related to the prosecution and incarceration of human trafficking offenders.
- Potential one-time local government costs of up to a few million dollars on a statewide basis, and lesser additional costs incurred each year, due to new mandatory human trafficking-related training requirements for law enforcement officers.
- Potential additional revenue from new criminal fines, likely a few million dollars annually, which would fund services for human trafficking victims and for law enforcement activities related to human trafficking.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Federal Law. Federal law contains various provisions prohibiting human trafficking. The Federal Trafficking Victims Protection Act generally defines two types of human trafficking:

- ***Sex Trafficking***—in which persons are recruited, transported, or obtained for a commercial sex act that is induced by force or fraud or in which the victim performing the act is under age 18. An example of sex trafficking is forcing a person into prostitution.
- ***Labor Trafficking***—in which persons are recruited, transported, or obtained through the use of force or fraud to provide labor or other services. An example of this is forcing a foreign national to work for free by threatening deportation.

These laws are enforced by federal law enforcement agencies that may act independently or with state and local law enforcement agencies.

State Law. Existing state law contains similar criminal prohibitions against human trafficking. Specifically, state law defines human trafficking as violating the liberty of a person with the intent to either (1) commit certain felony crimes (such as prostitution) or (2) obtain forced labor or services. Human trafficking is punishable under state law by a prison sentence of up to five years or, if the victim is under the age of 18, by a state prison sentence of up to eight years. Offenders convicted of human trafficking crimes that result in great bodily injury to the victim can be punished with additional terms of up to six years. In recent years, there have been only a few people annually sent to state prison for human trafficking crimes. As of March 2012, there were 18 such offenders in state prison.

Under existing state law, most offenders who have been convicted of a sex crime (including some crimes involving human trafficking) are required to register as sex offenders with their local police or sheriff's departments.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

PROPOSAL

This measure makes several changes to state law related to human trafficking. Specifically, it (1) expands the definition of human trafficking, (2) increases the punishment for human trafficking offenses, (3) imposes new fines to fund services for human trafficking victims, (4) changes how evidence can be used against human trafficking victims, and (5) requires additional law enforcement training on handling human trafficking cases. The measure also places additional requirements on sex offender registrants.

Expanded Definition of Human Trafficking. This measure amends the definition of human trafficking under state law. Specifically, the measure defines more crimes related to the creation and distribution of obscene materials depicting minors as a form of human trafficking. For example, duplicating or selling these obscene materials could be considered human trafficking even if the offender had no contact with the minor depicted. In addition, with regard to sex trafficking cases involving minors, prosecutors would not have to show that force or coercion occurred. (This would make state law similar to federal law.)

More Severe Criminal Penalties for Human Trafficking. This measure increases the current criminal penalties for human trafficking under state law. For example, the measure increases the prison sentence for labor trafficking crimes to a maximum of 12 years per offense, and for sex trafficking of adults to up to 20 years per offense. Sex trafficking of minors that involved force or fraud would be punishable by up to a life term in prison. Figure 1 lists each of the measure's increases in the maximum prison sentences, sentence enhancements, and criminal fines.

In addition, the measure specifies that offenders convicted of human trafficking with previous convictions for human trafficking receive additional five-year prison terms for each of those prior convictions. Under the measure, offenders convicted of human trafficking that resulted in great bodily injury to the victim could be punished with additional terms of up to ten years. The measure also permits criminal courts to impose fines of up to $1.5 million for human trafficking offenses.

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Figure 1

Measure Increases Maximum Criminal Penalties For Human Trafficking

	Current Law	Proposition 35
Prison Sentence[a]		
Labor trafficking	5 years	12 years
Sex trafficking of an adult, forced	5 years	20 years
Sex trafficking of a minor without force	None[b]	12 years
Sex trafficking of a minor, forced	8 years	Life term
Sentence Enhancement[a]		
Great bodily injury	6 years	10 years
Prior human trafficking offense	None	5 years per prior conviction
Fines	Up to $100,000 for sex trafficking a minor	Up to $1.5 million for all human trafficking offenses

[a] Actual penalty includes a range of years.
[b] Activities considered under the measure as sex trafficking of minors without force are illegal under current law but not defined as human trafficking. The penalties for these crimes vary.

For text of Proposition 35, see page 100.

Programs for Human Trafficking Victims. The measure requires that the funds collected from the above fines support services for victims of human trafficking. Specifically, 70 percent of funds would be allocated to public agencies and nonprofit organizations that provide direct services to such victims. The measure requires that the remaining 30 percent be provided to law enforcement and prosecution agencies in the jurisdiction where the charges were filed and used for human trafficking prevention, witness protection, and rescue operations.

Changes Affecting Court Proceedings. The measure also affects the trial of criminal cases involving charges of human trafficking. Specifically, the measure prohibits the use of evidence that a person was involved in criminal sexual conduct (such as prostitution) to prosecute that person for that crime if the conduct was a result of being a victim of human trafficking. The measure also makes evidence of sexual conduct by a victim of human trafficking inadmissible for the purposes of attacking the victim's credibility or character in court. In addition, this measure disallows certain defenses in human trafficking cases involving minors. For example, a defendant could not claim as a defense being unaware of the minor's age.

Law Enforcement Training. This measure requires all peace officers employed by police and sheriff's departments and the California Highway Patrol (CHP) who perform field or investigative work to undergo at least two hours of training on how to handle human trafficking complaints. This training would have to be completed by July 1, 2014, or within six months of the officer being assigned to the field or investigative work.

Expanded Requirements for Sex Offender Registration. This measure requires registered sex offenders to provide the names of their Internet providers and identifiers to local police or sheriff's departments. Such identifiers include e-mail addresses, user names, screen names, or other personal identifiers for Internet communication and activity. If a registrant changes his or her Internet service account or changes or adds an Internet identifier, the individual must notify law enforcement within 24 hours of such changes.

FISCAL EFFECTS

Currently, human trafficking cases are often prosecuted under federal law, rather than California state law, even when California law enforcement agencies are involved in the investigation of the case. This is partly because these types of crimes often involve multiple jurisdictions and also because of the federal government's historical lead role in such cases. It is unknown whether the expanded definition of human trafficking and other changes proposed in this measure would significantly increase the number of state human trafficking arrests and convictions or whether most such cases would continue to be handled primarily by federal law enforcement authorities. As a result, the fiscal effects of this measure on state and local governments discussed below are subject to some uncertainty.

Minor Increase in State and Local Criminal Justice Costs From Increased Penalties. The measure would result in some additional state and local criminal justice costs by increasing the criminal penalties for human trafficking. In particular, the increased prison sentences in the measure would increase the length of time offenders spend in state prison. In addition, it is possible that the measure's provisions increasing funding and training requirements for local law enforcement could result in additional human trafficking arrests, prosecutions, and convictions. This could also increase state and local criminal justice costs. In total, these new costs are **not likely to exceed a couple million dollars annually**.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

Potential Increase in Local Law Enforcement Training Costs. As noted earlier, this measure requires that most state and local law enforcement officers receive specific training on human trafficking. Since CHP officers already receive such training, there would be no additional state costs. The fiscal impact of this requirement on local agencies would depend on the extent to which local officers are currently receiving such training and on how local law enforcement agencies chose to satisfy the measure's training requirements. Counties and cities could collectively incur costs of **up to a few million dollars on a one-time basis** to train existing staff and provide back-up staff to officers who are in training, with lesser costs incurred each subsequent year to train newly hired officers.

Increased Fine Revenue for Victim Services. The new criminal fines established by this measure would result in some additional revenue, likely not to exceed a few million dollars annually. Actual revenues would depend on the number of individuals convicted of human trafficking, the level of fines imposed by the courts, and the amount of actual payments made by the convicted offenders. These revenues would be dedicated primarily to services for victims of human trafficking, but also would be used for human trafficking prevention, witness protection, and rescue operations.

For text of Proposition 35, see page 100.

PROPOSITION
36 THREE STRIKES LAW. REPEAT FELONY OFFENDERS. PENALTIES. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

THREE STRIKES LAW. REPEAT FELONY OFFENDERS. PENALTIES. INITIATIVE STATUTE.

- Revises three strikes law to impose life sentence only when new felony conviction is serious or violent.
- Authorizes re-sentencing for offenders currently serving life sentences if third strike conviction was not serious or violent and judge determines sentence does not pose unreasonable risk to public safety.
- Continues to impose life sentence penalty if third strike conviction was for certain nonserious, non-violent sex or drug offenses or involved firearm possession.
- Maintains life sentence penalty for felons with nonserious, non-violent third strike if prior convictions were for rape, murder, or child molestation.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- State savings related to prison and parole operations of $70 million annually on an ongoing basis, with even higher savings—up to $90 million annually—over the next couple of decades. These estimates could be higher or lower by tens of millions of dollars depending on future state actions.
- One-time state and county costs of a few million dollars over the next couple of years for court activities related to the resentencing of certain offenders.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

There are three categories of crimes: felonies, misdemeanors, and infractions. A felony is the most serious type of crime, and an individual convicted of a felony may be sentenced to state prison under certain circumstances. Individuals convicted of felonies who are not sentenced to state prison are sentenced to county jail, supervised by the county probation department in the community, or both.

Existing law classifies some felonies as "violent" or "serious," or both. Examples of felonies currently defined as violent include murder, robbery, and rape. While almost all violent felonies are also considered serious, other felonies are defined only as serious, such as assault with intent to commit robbery. Felonies that are not classified as violent or serious include grand theft (not involving a firearm) and possession of a controlled substance.

As of May 2012, there were about 137,000 inmates in the California prison system. The state's prison system in 2012–13 is budgeted for almost $9 billion.

Three Strikes Sentencing. Proposition 184 (commonly referred to as the "three strikes" law) was adopted by voters in 1994. It imposed longer prison sentences for certain repeat offenders. Specifically, the law requires that a person who is convicted of a felony and who previously has been convicted of one or more violent or serious felonies be sentenced to state prison as follows:

- ***Second Strike Offense.*** If the person has *one previous* serious or violent felony conviction, the sentence for *any new* felony conviction (not just a serious or violent felony) is *twice* the term otherwise required under law for the new conviction. Offenders sentenced by the courts under this provision are referred to as "second strikers." As of March 2012, about 33,000 inmates were second strikers.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

- ***Third Strike Offense.*** If the person has *two or more previous* serious or violent felony convictions, the sentence for *any new* felony conviction (not just a serious or violent felony) is a life term with the earliest possible parole after 25 years. Offenders convicted under this provision are referred to as "third strikers." As of March 2012, about 9,000 inmates were third strikers.

While the law requires the sentences described above, in some instances the court may choose not to consider prior felonies during sentencing. When this occurs, an offender who would otherwise be sentenced as a second or third striker would be sentenced to a lesser term than required under the three strikes law.

Prison Release Determination. Under current law, most second strikers are automatically released from prison after completing their sentences. In contrast, third strikers are only released upon approval by the state Board of Parole Hearings (BPH). After third strikers have served the minimum number of years required by their sentence, a BPH panel conducts a parole consideration hearing to consider their possible release. For example, BPH would conduct such a hearing for a third striker sentenced to 25-years-to-life after the third striker served 25 years. If BPH decides not to release the third striker at that hearing, the board would conduct a subsequent hearing in the future. Since the three strikes law came into effect in 1994, the first third strikers will become eligible for hearings on their possible release from prison near the end of this decade.

Post Release Supervision. All second and third strikers are required under current law to be supervised in the community after release from prison. If a second striker's most recent conviction was for a nonserious, non-violent crime, he or she will generally be supervised in the community by county probation officers. Otherwise, the second striker will be supervised in the community by state parole agents. All third strikers are supervised in the community by state parole agents following their release. When second or third strikers violate the terms of their community supervision or commit a new offense, they could be placed in county jail or state prison depending on the circumstances.

PROPOSAL

This measure reduces prison sentences served under the three strikes law by certain third strikers whose current offenses are nonserious, non-violent felonies. The measure also allows resentencing of certain third strikers who are currently serving life sentences for specified nonserious, non-violent felonies. Both of these changes are described below.

Shorter Sentences for Some Third Strikers. The measure requires that an offender who has *two or more prior* serious or violent felony convictions and whose *new* offense is a nonserious, non-violent felony receive a prison sentence that is twice the usual term for the new offense, rather than a minimum sentence of 25-years-to-life as is currently required. For example, a third striker who is convicted of a crime in which the usual sentence is two to four years would instead receive a sentence of between four to eight years—twice the term that would otherwise apply—rather than a 25-years-to-life term.

The measure, however, provides for some exceptions to these shorter sentences. Specifically, the measure requires that if the offender has committed certain new or prior offenses, including some drug-, sex-, and gun-related felonies, he or she would still be subject to a life sentence under the three strikes law.

For text of Proposition 36, see page 105.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

Resentencing of Some Current Third Strikers. This measure allows certain third strikers to apply to be resentenced by the courts. The measure limits eligibility for resentencing to third strikers whose current offense is nonserious, non-violent and who have not committed specified current and prior offenses, such as certain drug-, sex-, and gun-related felonies. Courts conducting these resentencing hearings would first determine whether the offender's criminal offense history makes them eligible for resentencing. The court would be required to resentence eligible offenders unless it determines that resentencing the offenders would pose an unreasonable risk to public safety. In determining whether an offender poses such a risk, the court could consider any evidence it determines is relevant, such as the offender's criminal history, behavior in prison, and participation in rehabilitation programs. The measure requires resentenced offenders to receive twice the usual term for their most recent offense instead of the sentence previously imposed. Offenders whose requests for resentencing are denied by the courts would continue to serve out their life terms as they were originally sentenced.

FISCAL EFFECTS

State Correctional Savings. This measure would have a number of fiscal impacts on the state's correctional system. Most significantly, the measure would reduce state prison costs in two ways. First, fewer inmates would be incarcerated for life sentences under the three strikes law because of the measure's provisions requiring that such sentences be applied only to third strikers whose current offense is serious or violent. This would reduce the sentences of some future felony offenders. Second, the resentencing of third strikers could result in many existing inmates receiving shorter prison terms. This would result in a reduction in the inmate population beginning in the near term.

The measure would also result in reduced state parole costs. This would occur because the offenders affected by this measure would generally be supervised by county probation—rather than state parole—following their release from prison. This is because their current offense would be nonserious and non-violent. In addition, the reduction in the third striker population would reduce the number of parole consideration hearings BPH would need to conduct in the future.

State correctional savings from the above changes would likely be around $70 million annually, with even higher savings—up to $90 million annually—over the next couple of decades. However, these annual savings could be tens of millions of dollars higher or lower depending on several factors. In particular, the actual level of savings would depend on the number of third strikers resentenced by the court and the rate at which BPH would have released third strikers in the future under current law.

Resentencing Costs. This measure would result in a one-time cost to the state and counties related to the resentencing provisions of this measure. These provisions would increase court caseloads, which would result in added costs for district attorneys, public defenders, and county sheriff's departments that would manage this workload and staff these resentencing proceedings. In addition, counties would incur jail costs to house inmates during resentencing proceedings. These costs could be a few million dollars statewide over a couple of years.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

Other Fiscal Impacts. There would be some additional court-, probation-, and jail-related costs for the state and counties. This is because some offenders released from prison due to this measure would be supervised by probation departments instead of state parole, and would have court hearings and receive jail sentences if they violate the terms of their supervision or commit new crimes. We estimate that such long-term costs would not be significant.

This measure could result in a variety of other state and local government fiscal effects. For instance, governments would incur additional costs to the extent that offenders released from prison because of this measure require government services (such as government-paid health care for persons without private insurance coverage) or commit additional crimes. There also would be some additional state and local government revenue to the extent that offenders released from prison because of this measure entered the workforce. The magnitude of these impacts is unknown.

For text of Proposition 36, see page 105.

PROPOSITION
37 GENETICALLY ENGINEERED FOODS. LABELING. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY **PREPARED BY THE ATTORNEY GENERAL**

GENETICALLY ENGINEERED FOODS. LABELING. INITIATIVE STATUTE.

- Requires labeling on raw or processed food offered for sale to consumers if made from plants or animals with genetic material changed in specified ways.
- Prohibits labeling or advertising such food, or other processed food, as "natural."
- Exempts foods that are: certified organic; unintentionally produced with genetically engineered material; made from animals fed or injected with genetically engineered material but not genetically engineered themselves; processed with or containing only small amounts of genetically engineered ingredients; administered for treatment of medical conditions; sold for immediate consumption such as in a restaurant; or alcoholic beverages.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased annual state costs ranging from a few hundred thousand dollars to over $1 million to regulate the labeling of genetically engineered foods.
- Potential, but likely not significant, costs to state and local governments due to litigation resulting from possible violations of the requirements of this measure. Some of these costs would be supported by court filing fees that the parties involved in each legal case would be required to pay under existing law.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Genetically Engineered (GE) Foods. Genetic engineering is the process of changing the genetic material of a living organism to produce some desired change in that organism's characteristics. This process is often used to develop new plant and animal varieties that are later used as sources of foods, referred to as GE foods. For example, genetic engineering is often used to improve a plant's resistance to pests or to allow a plant to withstand the use of pesticides. Some of the most common GE crops include varieties of corn and soybeans. In 2011, 88 percent of all corn and 94 percent of all soybeans produced in the U.S. were grown from GE seeds. Other common GE crops include alfalfa, canola, cotton, papaya, sugar beets, and zucchini. In addition, GE crops are used to make food ingredients (such as high fructose corn syrup) that are often included in processed foods (meaning foods that are not raw agriculture crops). According to some estimates, 40 percent to 70 percent of food products sold in grocery stores in California contain some GE ingredients.

Federal Regulation. Federal law does not specifically require the regulation of GE foods. However, the U.S. Department of Agriculture currently places some restrictions on the use of GE crops that are shown to cause harm to other plants. In addition, the U.S. Food and Drug Administration is responsible for ensuring that most foods (regardless of whether they are genetically engineered) and food additives are safe and properly labeled.

State Regulation. Under existing state law, California agencies are not specifically required to regulate GE foods. However, the Department of Public Health (DPH) is responsible for regulating the safety and labeling of most foods.

PROPOSAL

This measure makes several changes to state law to explicitly require the regulation of GE foods. Specifically, it (1) requires that most GE foods sold be properly labeled, (2) requires DPH to regulate the labeling of such foods, and (3) allows individuals to sue food manufacturers who violate the measure's labeling provisions.

Labeling of Foods. This measure requires that GE foods sold at retail in the state be clearly labeled as genetically engineered. Specifically, the measure requires that raw foods (such as fruits and vegetables) produced entirely or in part through genetic engineering be labeled with the words "Genetically

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

Engineered" on the front package or label. If the item is not separately packaged or does not have a label, these words must appear on the shelf or bin where the item is displayed for sale. The measure also requires that processed foods produced entirely or in part through genetic engineering be labeled with the words "Partially Produced with Genetic Engineering" or "May be Partially Produced with Genetic Engineering."

Retailers (such as grocery stores) would be primarily responsible for complying with the measure by ensuring that their food products are correctly labeled. Products that are labeled as GE would be in compliance. For each product that is not labeled as GE, a retailer generally must be able to document why that product is exempt from labeling. There are two main ways in which a retailer could document that a product is exempt: (1) by obtaining a sworn statement from the provider of the product (such as a wholesaler) indicating that the product has not been intentionally or knowingly genetically engineered or (2) by receiving independent certification that the product does not contain GE ingredients. Other entities throughout the food supply chain (such as farmers and food manufacturers) may also be responsible for maintaining these records. The measure also excludes certain food products from the above labeling requirements. For example, alcoholic beverages, organic foods, and restaurant food and other prepared foods intended to be eaten immediately would not have to be labeled. Animal products—such as beef or chicken—that were not directly produced through genetic engineering would also be exempted, regardless of whether the animal had been fed GE crops.

In addition, the measure prohibits the use of terms such as "natural," "naturally made," "naturally grown," and "all natural" in the labeling and advertising of GE foods. Given the way the measure is written, there is a possibility that these restrictions would be interpreted by the courts to apply to some processed foods regardless of whether they are genetically engineered.

State Regulation. The labeling requirements for GE foods under this measure would be regulated by DPH as part of its existing responsibility to regulate the safety and labeling of foods. The measure allows the department to adopt regulations that it determines are necessary to carry out the measure. For example, DPH would need to develop regulations that describe the sampling procedures for determining whether foods contain GE ingredients.

Litigation to Enforce the Measure. Violations of the measure could be prosecuted by state, local, or private parties. It allows the court to award these parties all reasonable costs incurred in investigating and prosecuting the action. In addition, the measure specifies that consumers could sue for violations of the measure's requirements under the state Consumer Legal Remedies Act, which allows consumers to sue without needing to demonstrate that any specific damage occurred as a result of the alleged violation.

FISCAL EFFECTS

Increase in State Administrative Costs. This measure would result in additional state costs for DPH to regulate the labeling of GE foods, such as reviewing documents and performing periodic inspections to determine whether foods are actually being sold with the correct labels. Depending on how and the extent to which the department chooses to implement these regulations (such as how often it chose to inspect grocery stores), these costs could range from **a few hundred thousand dollars to over $1 million annually**.

Potential Increase in Costs Associated With Litigation. As described above, this measure allows individuals to sue for violations of the labeling requirements. As this would increase the number of cases filed in state courts, the state and counties would incur additional costs to process and hear the additional cases. The extent of these costs would depend on the number of cases filed, the number of cases prosecuted by state and local governments, and how they are decided by the courts. Some of the increased court costs would be supported by the court filing fees that the parties involved in each case would be required to pay under existing law. In the context of overall court spending, these costs are not likely to be significant in the longer run.

For text of Proposition 37, see page 110.

PROPOSITION
38 TAX TO FUND EDUCATION AND EARLY CHILDHOOD PROGRAMS. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

TAX TO FUND EDUCATION AND EARLY CHILDHOOD PROGRAMS. INITIATIVE STATUTE.

- Increases personal income tax rates on annual earnings over $7,316 using sliding scale from .4% for lowest individual earners to 2.2% for individuals earning over $2.5 million, for twelve years.
- During first four years, allocates 60% of revenues to K–12 schools, 30% to repaying state debt, and 10% to early childhood programs. Thereafter, allocates 85% of revenues to K–12 schools, 15% to early childhood programs.
- Provides K–12 funds on school-specific, per-pupil basis, subject to local control, audits, and public input.
- Prohibits state from directing new funds.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increase in state personal income tax revenues from 2013 through 2024. The increase would be roughly $10 billion in 2013–14, tending to increase over time. The 2012–13 increase would be about half this amount.
- In each of the initial years, about $6 billion would be used for schools, $1 billion for child care and preschool, and $3 billion for state savings on debt payments. The 2013–14 amounts likely would be higher due to the additional distribution of funds raised in 2012–13.
- From 2017–18 through 2024–25, the shares spent on schools, child care, and preschool would be higher and the share spent on debt payments lower.

ANALYSIS BY THE LEGISLATIVE ANALYST

OVERVIEW

This measure raises personal income taxes on most California taxpayers from 2013 through 2024. The revenues raised by this tax increase would be spent on public schools, child care and preschool programs, and state debt payments. Each of the measure's key provisions is discussed in more detail below.

STATE TAXES AND REVENUES

Background

Personal Income Tax (PIT). The PIT is a tax on wage, business, investment, and other income of individuals and families. State PIT rates range from 1 percent to 9.3 percent on the portions of a taxpayer's income in each of several income brackets. (These are referred to as marginal tax rates.) Higher marginal tax rates are charged as income increases. The tax revenue generated from this tax—totaling $49.4 billion for the 2010–11 fiscal year—is deposited into the state's General Fund. In addition, an extra 1 percent tax applies to annual income over $1 million (with the associated revenue dedicated to mental health services).

Proposal

Increases PIT Rates. This measure increases state PIT rates on all but the lowest income bracket, effective over the 12-year period from 2013 through 2024. As shown in Figure 1, the additional marginal tax rates would increase with each higher tax bracket. For example, for joint filers, an additional 0.7 percent marginal tax rate would be imposed on income between $34,692 and $54,754, increasing the total rate to 4.7 percent. Similarly, an additional 1.1 percent marginal tax rate would be imposed on income between $54,754 and $76,008, increasing the total rate to 7.1 percent. These higher tax rates would result in higher tax liabilities on roughly 60 percent of state PIT returns. (Personal, dependent, senior, and other tax credits, among other factors, would continue to eliminate all tax liabilities for many lower-income tax filers even if they have income in a bracket affected by the measure's rate increases.) The additional 1 percent rate for mental

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

Figure 1

Current and Proposed Personal Income Tax Rates Under Proposition 38

Single Filer's Taxable Income[a]	Joint Filers' Taxable Income[a]	Head-of-Household Filer's Taxable Income[a]	Current Marginal Tax Rate[b]	Proposed Additional Marginal Tax Rate[b]
$0–$7,316	$0–$14,632	$0–$14,642	1.0%	—
7,316–17,346	14,632–34,692	14,642–34,692	2.0	0.4%
17,346–27,377	34,692–54,754	34,692–44,721	4.0	0.7
27,377–38,004	54,754–76,008	44,721–55,348	6.0	1.1
38,004–48,029	76,008–96,058	55,348–65,376	8.0	1.4
48,029–100,000	96,058–200,000	65,376–136,118	9.3	1.6
100,000–250,000	200,000–500,000	136,118–340,294	9.3	1.8
250,000–500,000	500,000–1,000,000	340,294–680,589	9.3	1.9
500,000–1,000,000	1,000,000–2,000,000	680,589–1,361,178	9.3	2.0
1,000,000–2,500,000	2,000,000–5,000,000	1,361,178–3,402,944	9.3	2.1
Over 2,500,000	Over 5,000,000	Over 3,402,944	9.3	2.2

[a] Income brackets shown were in effect for 2011 and will be adjusted for inflation in future years. Single filers also include married individuals and registered domestic partners (RDPs) who file taxes separately. Joint filers include married and RDP couples who file jointly, as well as qualified widows or widowers with a dependent child.

[b] Marginal tax rates apply to taxable income in each tax bracket listed. For example, a single tax filer with taxable income of $15,000 could have had a 2011 tax liability under current tax rates of $227: the sum of $73 (which equals 1 percent of the filer's first $7,316 of income) and $154 (2 percent of the filer's income over $7,316). This tax liability would be reduced—and potentially eliminated—by personal, dependent, senior, and other tax credits, among other factors. The proposed additional tax rates would take effect beginning in 2013 and end in 2024. Current tax rates listed exclude the mental health tax rate of 1 percent for taxable income in excess of $1 million.

health services would still apply to income in excess of $1 million. This measure's rate changes, therefore, would increase these taxpayers' marginal PIT rates from 10.3 percent to as much as 12.5 percent. Proposition 30 on this ballot also would increase PIT rates. The nearby box describes what would happen if both measures are approved.

Provides Funds for Public Schools, Early Care and Education (ECE), and Debt Service. The revenues raised by the measure would be deposited into a newly created California Education Trust Fund (CETF). These funds would be dedicated exclusively to three purposes. As shown in Figure 2, in 2013–14 and 2014–15, the measure allocates 60

Figure 2

Allocation of Revenues Raised by Proposition 38

	2013–14 and 2014–15	2015–16 and 2016–17	2017–18 Through 2023–24
Schools	60%	60%	85%
Early Care and Education (ECE)	10	10	15
State debt payments	30	30[a]	—[a]
Totals	**100%**	**100%**	**100%**
Growth limit on allocations to schools and ECE programs[a]	No	Yes	Yes

[a] Reflects minimum share dedicated to state debt payments. Revenues beyond growth limit also would be used to make debt payments.

For text of Proposition 38, see page 113.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

percent of CETF funds to schools, 10 percent of funds to ECE programs, and 30 percent of funds to make state debt payments. In 2015–16 and 2016–17, the same general allocations are authorized but a somewhat higher share could be used for state debt payments. This is because beginning in 2015–16, the measure: (1) limits the growth in total allocations to schools and ECE programs based on the average growth in California per capita personal income over the previous five years and (2) dedicates the funds collected above the growth rate to state debt payments. From 2017–18 through 2023–24, up to 85 percent of CETF funds would go to schools and up to 15 percent would go to ECE programs, with revenues in excess of the growth rate continuing to be used for state debt payments.

What Happens if Voters Approve Both Proposition 30 and Proposition 38?

State Constitution Specifies What Happens if Two Measures Conflict. If provisions of two measures approved on the same statewide ballot conflict, the Constitution specifies that the provisions of the measure receiving more "yes" votes prevail. Proposition 30 and Proposition 38 on this statewide ballot both increase personal income tax (PIT) rates and, as such, could be viewed as conflicting.

Measures State That Only One Set of Tax Increases Goes Into Effect. Proposition 30 and Proposition 38 both contain sections intended to clarify which provisions are to become effective if both measures pass:

- ***If Proposition 30 Receives More Yes Votes.*** Proposition 30 contains a section indicating that its provisions would prevail in their entirety, and none of the provisions of any other measure increasing PIT rates—in this case Proposition 38—would go into effect.
- ***If Proposition 38 Receives More Yes Votes.*** Proposition 38 contains a section indicating that its provisions would prevail and the tax rate provisions of any other measure affecting sales or PIT rates—in this case Proposition 30—would not go into effect. Under this scenario, the spending reductions known as the "trigger cuts" would take effect as a result of Proposition 30's tax increases not going into effect. (See the analysis of Proposition 30 for more information on the trigger cuts.)

Cannot Be Amended by the Legislature. If adopted by voters, this measure could be amended only by a future ballot measure. The Legislature would be prohibited from making any modifications to the measure without voter approval.

Fiscal Effect

Around $10 Billion of Additional Annual State Revenues. In the initial years—beginning in 2013–14—the annual amount of additional state revenues raised would be around $10 billion. (In 2012–13, the measure would result in additional state revenues of about half this amount.) The total revenues generated would tend to grow over time. Revenues generated in any particular year, however, could be much higher or lower than the prior year. This is mainly because the measure increases tax rates more for upper-income taxpayers. The income of these individuals tends to swing more significantly because it is affected to a much greater extent by changes in the stock market, housing prices, and other investments. Due to the swings in the income of these taxpayers and the uncertainty of their responses to the rate increases, the revenues raised by this measure are difficult to estimate.

SCHOOLS

Background

Most Public School Funding Tied to State Funding Formula. California provides educational services to about 6 million public school students. These students are served through more than 1,000 local educational agencies—primarily school districts. Most school funding is provided through the state's school funding formula—commonly called the Proposition 98 minimum guarantee. (Community college funding also applies toward meeting the minimum guarantee.) The minimum guarantee is funded through a combination of state General Fund and local property tax revenues. In 2010–11, schools received $43 billion from the school funding formula.

Most School Spending Decisions Are Made by Local Governing Boards. Roughly 70 percent of state-related school funding can be used for any

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

educational purpose. In most cases, the school district governing board decides how the funds should be spent. The governing board typically will determine the specific activities for which the funds will be used, as well as how the funds will be distributed among the district's school sites. The remaining 30 percent of funds must be used for specified purposes, such as serving school meals or transporting students to and from school. School districts typically have little flexibility in how to use these restricted funds.

Proposal

Under this measure, schools will receive roughly 60 percent of the revenues raised by the PIT rate increases through 2016–17 and roughly 85 percent annually thereafter. These CETF funds would be in addition to Proposition 98 General Fund support for schools. The funds support three grant programs. The measure also creates spending restrictions and reporting requirements related to these funds. These major provisions are discussed in more detail below.

Distributes School Funds Through Three Grant Programs. Proposition 38 requires that CETF school funds be allocated as follows:

- ***Educational Program Grants (70 Percent of Funds).*** The largest share of funds—70 percent of all CETF school funding—would be distributed based on the number of students at each school. The specific per-student grant, however, would depend on the grade of each student, with schools receiving more funds for students in higher grades. Educational program grants could be spent on a broad range of activities, including instruction, school support staff (such as counselors and librarians), and parent engagement.
- ***Low-Income Student Grants (18 Percent of Funds).*** The measure requires that 18 percent of CETF school funds be allocated at one statewide rate based on the number of low-income students (defined as the number of students eligible for free school meals) enrolled in each school. As with the educational program grants, low-income student grants could be spent on a broad range of educational activities.
- ***Training, Technology, and Teaching Materials Grants (12 Percent of Funds).*** The remaining 12 percent of funds would be allocated at one statewide rate based on the number of students at each school. The funds could be used only for training school staff and purchasing up-to-date technology and teaching materials.

Requires Funds Be Spent at Corresponding School Sites. Funds received by school districts from this measure must be spent at the specific school whose students generated the funds. In the case of low-income student grants, for example, if 100 percent of low-income students in a school district were located in one particular school, all low-income grant funds would need to be spent at that specific school. As with most other school funding, however, the local governing board would determine how CETF funds are spent at each school site. To ensure that Proposition 38 funds would result in a net increase in funding for all schools, the measure also would require school districts to make reasonable efforts to avoid reducing per-student funding from non-CETF sources at each school site below 2012–13 levels. If a school district reduces the per-student funding for any school site below the 2012–13 level, it must explain the reasons for the reduction in a public meeting held at or near the school.

Requires School Districts to Seek Public Input Prior to Making Spending Decisions. Proposition 38 also requires school district governing boards at an open public hearing to seek input from students, parents, teachers, administrators, and other school staff on how to spend CETF school funds. When the governing board decides how to spend the funds, it must explain—publicly and online—how CETF school expenditures will improve educational outcomes and how those improved outcomes will be measured.

Creates Budget Reporting Requirements for Each School. The measure also includes several reporting requirements for school districts. Most notably, beginning in 2012–13, the measure requires all school districts to create and publish an online budget for each of their schools. The budget must

For text of Proposition 38, see page 113.

show funding and expenditures at each school from all funding sources, broken down by various spending categories. The state Superintendent of Public Instruction must provide a uniform format for budgets to be reported and must make all school budgets available to the public, including data from previous years. In addition, school districts must provide a report on how CETF funds were spent at each of their schools within 60 days after the close of the school year.

Other Allowances and Prohibitions. The measure allows up to 1 percent of a school district's allocation to be spent on budgeting, reporting, and audit requirements. The measure prohibits CETF school funds from being used to provide salary or benefit increases unless the increases are provided to other like employees that are funded with non-CETF dollars. The measure also has a provision that prohibits CETF school monies from being used to replace state, local, or federal funding provided as of November 1, 2012.

Fiscal Effect

Provides Additional Funding for Schools. In the initial years, schools would receive roughly $6 billion annually, or $1,000 per student, from the measure. Of that amount, $4.2 billion would be provided for education program grants, $1.1 billion for low-income student grants, and $700 million for training, technology, and teaching materials grants. (The 2013–14 amounts would be higher because the funds raised in 2012–13 also would be available for distribution.) The amounts available in future years would tend to grow over time. Beginning in 2017–18, the amount spent on schools would increase further as the amount required to be used for state debt payments decreases significantly.

EARLY CARE AND EDUCATION

Background

ECE Programs Serve Children Ages Five and Younger. Prior to attending kindergarten—which usually starts at age five—most California children attend some type of ECE program. Families participate in these programs for a variety of reasons, including supervision of children while parents are working and development of a child's social and cognitive skills. Programs serving children ages birth to three typically are referred to as infant and toddler care. Programs serving three- to five-year-old children often are referred to as preschool and typically have an explicit focus on helping prepare children for kindergarten. Whereas all programs must meet basic health and safety standards to be licensed by the state, the specific characteristics of programs—including staff qualifications, adult-to-child ratios, curriculum, family fees, and cost of care—vary.

Some Children Are Eligible for Subsidized ECE Services. While many families pay to participate in ECE programs, public funds also subsidize services for some children. These subsidies generally are reserved for families that are low income, participate in welfare-to-work programs or other work or training activities, and/or have children with special needs. Generally, eligibility for ECE subsidies is limited to families that earn 70 percent or less than the state median income level (for example, currently the limit is $3,518 per month for a family of three). The state pays a set per-child rate to providers for subsidized ECE "slots." The payment rate varies by region of the state and care setting. It typically is about $1,000 per month for full-time infant/toddler care and $700 per month for full-time preschool.

Current Funding Levels Do Not Subsidize ECE Programs for All Eligible Children. In 2010–11, state and federal funds provided roughly $2.6 billion to offer a variety of child care and preschool programs for approximately 500,000, or about 15 percent, of California children ages five and younger. Roughly half of all California children, however, meet income eligibility criteria for subsidized programs. Because state and federal ECE funding is not sufficient to provide subsidized services for all eligible children, waiting lists are common in most counties.

Proposal

As noted earlier, ECE programs will receive roughly 10 percent of the revenues raised by the PIT rate increases through 2016–17 and roughly 15

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

percent annually thereafter. The measure provides specific allocations of these funds, as summarized in Figure 3. As shown in the top part of the figure, up to 23 percent of the funds raised for ECE programs would be dedicated to restoring recent state budget reductions to child care slots and provider payment rates as well as implementing certain statewide activities designed to support the state's ECE system. The remaining ECE funds, shown in the bottom part of the figure, would expand child care and preschool programs to serve more children from low-income families and increase payment rates for certain ECE providers. The measure also prohibits the state from reducing existing support for ECE programs. Specifically, the state would be required to spend the same proportion of state General Fund revenues for ECE programs in future years as it is spending in 2012–13 (roughly 1 percent). As described in more detail below, the measure includes extensive provisions relating to: (1) a rating system

Figure 3

Proposition 38's Early Care and Education (ECE) Provisions

Purpose/Description	Percent of ECE Funding[a]
"Restoration and System Improvement"	
***Program Restorations*—**Partially restores state budget reductions made to existing subsidized ECE programs since 2008–09. Restorations would include serving more children, increasing how much a family can earn and still be eligible for benefits, and increasing state per-child payment rates.	19.4%
***Rating System*—**Establishes system to assess and publicly rate ECE programs based on how they contribute to children's social/emotional development and academic preparation.	2.6
***ECE Database*—**Establishes statewide database to collect and maintain information about children who attend state-funded ECE programs. Would include details about a child's ECE program as well as his/her performance on a kindergarten readiness assessment. Would be linked to state's K–12 database.	0.6
***Licensing Inspections*—**Increases how frequently ECE programs receive health and safety inspections from the state licensing agency.	0.3
Subtotal	(23.0%)
"Strengthen and Expand ECE Programs"	
***Services for Children Ages Three to Five*—**Expands subsidized preschool to more children from low-income families, prioritizing services in low-income neighborhoods.	51.6%
***Services for Children Ages Birth to Three*—**Establishes new California Early Head Start program to provide child care and family support for young children from low-income families.	16.6
***Provider Payment Rates*—**Provides supplemental per-child payments to state-subsidized ECE programs that receive higher scores on new rating scale, with most funding targeted for preschool programs. Also increases the existing per-child payment rate for all licensed state-subsidized ECE programs serving children ages birth to 18 months.	8.9
Subtotal	(77.0%[b])
Total	**100.0%**

[a] Because the amount dedicated to restoration and system improvement is capped at $355 million, a slightly lower share of funding would go toward these activities and a slightly higher share toward strengthening and expanding ECE programs when the measure's debt service payments cease in 2017–18.

[b] Not more than 3 percent of these funds can be used for state-level administrative costs. Not more than 15 percent of funding allocated to ECE providers can be used for facility costs.

For text of Proposition 38, see page 113.

for evaluating ECE programs, (2) preschool, and (3) infant and toddler care.

Establishes Statewide Rating System to Assess the Quality of Individual ECE Programs. The measure requires the state to implement an "Early Learning Quality Rating and Improvement System" (QRIS) to assess the effectiveness of individual ECE programs. Building on initial work the state already has undertaken, the state would have until January 2014 to develop a scale to evaluate how well programs contribute to children's social and emotional development and academic preparation. All ECE programs could choose to be rated on this scale, and ratings would be available to the public. The state also would develop a training program to help providers improve their services and increase their ratings. Additionally, Proposition 38 would provide supplemental payments—on top of existing per-child subsidy rates—to child care and preschool programs that achieve higher scores on the QRIS scale.

Provides Preschool to More Children From Low-Income Families. Proposition 38 expands the number of slots available in state-subsidized preschool programs located in neighborhoods with high concentrations of low-income families. Funding to offer these new slots would only be available to preschool providers with higher quality ratings. Funding would be allocated to providers based on the estimated number of eligible children living in the targeted neighborhoods who do not currently attend preschool. (At least 65 percent of these new slots must be in programs that offer full-day, full-year services.) Program participation would be limited to children meeting existing family income eligibility criteria or living in the targeted neighborhoods regardless of family income, with highest priority given to certain at-risk children (including those in foster care).

Establishes New Program for Infants and Toddlers From Low-Income Families. Proposition 38 establishes the California Early Head Start (EHS) program, modeled after the federal program of the same name. Up to 65 percent of funding for this program would offer both child care and family support services to low-income families with children ages birth to three. (At least 75 percent of these new slots must be for full-day, full-year care.) At least 35 percent of EHS funding would provide support services for families and caregivers not participating in the child care component of the program. In both cases, family support services could include home visits from program staff, assessments of child development, family literacy programs, and parent and caregiver training.

Fiscal Effect

Provides Additional Funding to Support and Expand ECE Programs. In the initial years, roughly $1 billion annually from the measure would be used for the state's ECE system. (The 2013–14 amount would be higher because the funds raised in 2012–13 also would be available for distribution.) The majority of funding would be dedicated to expanding child care and preschool—serving roughly an additional 10,000 infants/toddlers and 90,000 preschoolers in the initial years of implementation. The amount available in future years would tend to grow over time. Beginning in 2017–18, the amount spent on ECE programs would increase further as the amount required to be used for state debt payments decreases significantly.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

STATE DEBT PAYMENTS

Background

General Obligation Bond Debt Payments. Bond financing is a type of long-term borrowing that the state uses to raise money, primarily for long-lived infrastructure (including school and university buildings, highways, streets and roads, land and wildlife conservation, and water-related facilities). The state obtains this money by selling bonds to investors. In exchange, the state promises to repay this money, with interest, according to a specified schedule. The majority of the state's bonds are general obligation bonds, which must be approved by the voters and are guaranteed by the state's general taxing power. General obligation bonds are typically paid off with annual debt-service payments from the General Fund. In 2010–11, the state made $4.7 billion in general obligation bond debt-service payments. Of that amount, $3.2 billion was to pay for debt service on school and university facilities.

Proposal

At Least 30 Percent of Revenues for Debt-Service Relief Through 2016–17. Until the end of 2016–17, at least 30 percent of Proposition 38 revenues would be used by the state to pay debt-service costs. The measure requires that these funds first be used to pay education debt-service costs (pre-kindergarten through university school facilities). If, however, funds remain after paying annual education debt-service costs, the funds can be used to pay other state general obligation bond debt-service costs.

Limits Growth of School and ECE Allocations Beginning 2015–16, Uses Excess Funds for Debt-Service Payments. Beginning in 2015–16, total CETF allocations to schools and ECE programs could not increase at a rate greater than the average growth in California per capita personal income over the previous five years. The CETF monies collected in excess of this growth rate also would be used for state debt payments. (The measure provides an exception for 2017–18, given the changes in the revenue allocations.)

Fiscal Effect

General Fund Savings of Roughly $3 Billion Annually Through 2016–17. Until the end of 2016–17, at least 30 percent of the revenue raised by the measure—roughly $3 billion annually—would be used to pay general obligation debt-service costs and provide state General Fund savings. This would free up General Fund revenues for other public programs and make it easier to balance the budget in these years.

Potential Additional General Fund Savings Beginning in 2015–16. The measure's growth limit provisions also would provide General Fund savings in certain years. The amount of any savings would vary from year to year depending on the growth of PIT revenue and per capita personal income but could be several hundred million dollars annually.

For text of Proposition 38, see page 113.

PROPOSITION
39 TAX TREATMENT FOR MULTISTATE BUSINESSES. CLEAN ENERGY AND ENERGY EFFICIENCY FUNDING. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

TAX TREATMENT FOR MULTISTATE BUSINESSES. CLEAN ENERGY AND ENERGY EFFICIENCY FUNDING. INITIATIVE STATUTE.

- Requires multistate businesses to calculate their California income tax liability based on the percentage of their sales in California.
- Repeals existing law giving multistate businesses an option to choose a tax liability formula that provides favorable tax treatment for businesses with property and payroll outside California.
- Dedicates $550 million annually for five years from anticipated increase in revenue for the purpose of funding projects that create energy efficiency and clean energy jobs in California.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Approximately $1 billion in additional annual state revenues—growing over time—from eliminating the ability of multistate businesses to choose how their California taxable income is determined. This would result in some multistate businesses paying more state taxes.
- Of the revenue raised by this measure over the next five years, about half would be dedicated to energy efficiency and alternative energy projects.
- Of the remaining revenues, a significant portion likely would be spent on public schools and community colleges.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

State Corporate Income Taxes. The amount of money a business owes the state in corporate income taxes each year is based on the business' taxable income. For a business that operates both in California and in other states or countries (a multistate business), the state taxes only the part of its income that was associated with California. While only a small portion of corporations are multistate in nature, multistate corporations pay the vast majority of the state's corporate income taxes. This tax is the state's third largest General Fund revenue source, raising $9.6 billion in 2010–11.

Multistate Businesses Choose How Their Taxable Income Is Determined. Currently, state law allows most multistate businesses to pick one of two methods to determine the amount of their income associated with California and taxable by the state:

- ***"Three-Factor Method" of Determining Taxable Income.*** One method uses the location of the company's sales, property, and employees. When using this method, the more sales, property, or employees the multistate business has in California, the more of the business' income is subject to state tax.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

- ***"Single Sales Factor Method" of Determining Taxable Income.*** The other method uses only the location of the company's sales. When using this method, the more sales the multistate business has in California, the more of the business' income is taxed. (For example, if one-fourth of a company's product was sold in California and the remainder in other states, one-fourth of the company's total profits would be subject to California taxation.)

Multistate businesses generally are allowed to choose the method that is most advantageous to them for tax purposes.

Energy Efficiency Programs. There are currently numerous state programs established to reduce energy consumption. These efforts are intended to reduce the need to build new energy infrastructure (such as power plants and transmission lines) and help meet environmental quality standards. For example, the California Public Utilities Commission (CPUC) oversees various types of energy efficiency upgrade and appliance rebate programs that are funded by monies collected from utility ratepayers. In addition, the California Energy Commission (CEC) develops building and appliance standards that are intended to reduce energy consumption in the state.

School Funding Formula. Proposition 98, passed by voters in 1988 and modified in 1990, requires a minimum level of state and local funding each year for public schools and community colleges (hereafter referred to as schools). This funding level is commonly known as the Proposition 98 minimum guarantee. Though the Legislature can suspend the guarantee and fund at a lower level, it typically decides to provide funding equal to or greater than the guarantee. The Proposition 98 guarantee can grow with increases in state General Fund revenues (including those collected from state corporate income taxes). Accordingly, a measure—such as this one—that results in higher revenues also can result in a higher school funding guarantee. Proposition 98 expenditures are the largest category of spending in the state's budget—totaling roughly 40 percent of state General Fund expenditures.

PROPOSAL

Eliminates Ability of Multistate Businesses to Choose How Taxable Income Is Determined. Under this measure, starting in 2013, multistate businesses would no longer be allowed to choose the method for determining their state taxable income that is most advantageous for them. Instead, most multistate businesses would have to determine their California taxable income using the single sales factor method. Businesses that operate only in California would be unaffected by this measure.

This measure also includes rules regarding how all multistate businesses calculate the portion of some sales that are allocated to California for state tax purposes. These include a set of specific rules for certain large cable companies.

For text of Proposition 39, see page 125.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

Provides Funding for Energy Efficiency and Alternative Energy Projects. This measure establishes a new state fund, the Clean Energy Job Creation Fund, to support projects intended to improve energy efficiency and expand the use of alternative energy. The measure states that the fund could be used to support: (1) energy efficiency retrofits and alternative energy projects in public schools, colleges, universities, and other public facilities; (2) financial and technical assistance for energy retrofits; and (3) job training and workforce development programs related to energy efficiency and alternative energy. The Legislature would determine spending from the fund and be required to use the monies for cost-effective projects run by agencies with expertise in managing energy projects. The measure also (1) specifies that all funded projects must be coordinated with CEC and CPUC and (2) creates a new nine-member oversight board to annually review and evaluate spending from the fund.

The Clean Energy Job Creation Fund would be supported by some of the new revenue raised by moving to a mandatory single sales factor. Specifically, half of the revenues so raised—up to a maximum of $550 million—would be transferred annually to the Clean Energy Job Creation Fund. These transfers would occur for only five fiscal years—2013–14 through 2017–18.

FISCAL EFFECTS

Increase in State Revenues. As shown in the top line in Figure 1, this measure would increase state revenues by around $1 billion annually starting in 2013–14. (There would

Figure 1

Estimated Effects of Proposition 39 on State Revenues and Spending

	2012–13	2013–14 Through 2017–18	2018–19 And Beyond
Annual Revenues	$500 million	$1 billion, growing over period	Over $1 billion
Annual Spending			
Amount dedicated to energy projects	None	$500 million to $550 million	None
Increase in school funding guarantee	$200 million to $500 million	$200 million to $500 million, growing over period	$500 million to over $1 billion

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

be a roughly half-year impact in 2012–13.) The increased revenues would come from some multistate businesses paying more taxes. The amounts generated by this measure would tend to grow over time.

Some Revenues Used for Energy Projects. For a five-year period (2013–14 through 2017–18), about half of the additional revenues—$500 million to $550 million annually—would be transferred to the Clean Energy Job Creation Fund to support energy efficiency and alternative energy projects.

School Funding Likely to Rise Due to Additional Revenues. Generally, the revenue raised by the measure would be considered in calculating the state's annual Proposition 98 minimum guarantee. The funds transferred to the Clean Energy Job Creation Fund, however, would not be used in this calculation. As shown in the bottom part of Figure 1, the higher revenues likely would increase the minimum guarantee by at least $200 million for the 2012–13 through 2017–18 period. In some years during this period, however, the minimum guarantee could be significantly higher. For 2018–19 and beyond, the guarantee likely would be higher by at least $500 million. As during the initial period, the guarantee in some years could be significantly higher. The exact portion of the revenue raised that would go to schools in any particular year would depend upon various factors, including the overall growth in state revenues and the size of outstanding school funding obligations.

For text of Proposition 39, see page 125.

PROPOSITION
40 REDISTRICTING. STATE SENATE DISTRICTS. REFERENDUM.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

REDISTRICTING. STATE SENATE DISTRICTS. REFERENDUM.

- A "Yes" vote approves, and a "No" vote rejects, new State Senate districts drawn by the Citizens Redistricting Commission.
- If the new districts are rejected, the State Senate district boundary lines will be adjusted by officials supervised by the California Supreme Court.
- State Senate districts are revised every 10 years following the federal census.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- If the voters vote "yes" and approve the state Senate district maps certified by the Citizens Redistricting Commission, there would be no fiscal effect on state or local governments.
- If the voters vote "no" and reject the state Senate district maps certified by the Citizens Redistricting Commission, the state would incur a one-time cost of about $500,000 to establish new Senate districts. Counties would incur one-time costs of about $500,000 statewide to develop new precinct maps and related election materials for the new districts.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

California Legislature: Senate and Assembly. California is divided into 40 state Senate districts, with one Senator representing each Senate district. California also is divided into 80 state Assembly districts, with one Assembly Member representing each Assembly district. The State Constitution requires each Senate and Assembly district to contain approximately the same number of residents as other Senate and Assembly districts.

Determining District Boundaries. Every ten years, after the federal census counts the number of people living in California, the boundary lines of the Senate, Assembly, Board of Equalization, and Congressional districts are adjusted. Prior to 2008, the Legislature was responsible for adjusting these district boundaries. In 2008 and 2010, the state's voters approved Propositions 11 and 20, respectively, transferring the responsibility for determining these district boundaries to a new Citizens Redistricting Commission.

Citizens Redistricting Commission. The Constitution requires that the commission have 14 members, comprised of three groups of registered voters—5 who are registered with the largest political party in the state, 5 who are registered with the second largest political party in the state, and 4 who are not registered with either of these parties. The nearby boxes summarize (1) the process used to select commissioners and (2) the criteria the Constitution requires commissioners to consider when determining district boundaries. Actions by the commission to adopt (or "certify") district boundaries require the approval of nine commissioners, including at least three "yes" votes from each of the three groups of commissioners.

The Process for Selecting Citizens Redistricting Commissioners

Every ten years, 14 commissioners are selected pursuant to this three-step process:

- ***Developing the Applicant Pool.*** Any registered California voter may apply. The State Auditor removes applicants from the pool if they have certain conflicts of interest, changed their political party affiliation during the past five years, or did not vote in at least two of the last three general elections.
- ***Narrowing the Applicant Pool.*** After reviewing applicants' analytical skills, impartiality, and appreciation of California's diversity, three state auditors select the 60 most qualified applicants. Legislative leaders then may strike up to 24 names from the applicant pool.
- ***Selecting Commissioners.*** From the remaining applicants, the State Auditor randomly draws the names of the first eight commissioners. These commissioners then select the final six commissioners from the narrowed applicant pool.

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

Key Constitutional Criteria for Drawing Districts

When drawing new district maps, the State Constitution specifies that the commission may not consider political parties, incumbents, or political candidates. To the extent possible, the Constitution requires the commission to establish districts that meet the following criteria (listed in priority order):

1. Are reasonably equal in population.
2. Comply with the federal Voting Rights Act.
3. Are geographically contiguous.
4. Minimize the division of any city, county, city and county, local neighborhood, or local community of interest.
5. Are geographically compact.
6. Comprise Senate districts of two whole, complete, and adjacent Assembly districts.

Referendum. The Constitution allows voters to challenge district maps certified by the commission through the referendum process. In order to qualify a referendum for the ballot, proponents must submit petitions signed by a specified number of registered voters. A challenged map goes into effect if it is approved by a majority of the state's voters. If a referendum is rejected by the state's voters, the district map does not go into effect and the California Supreme Court oversees development of a new map.

Certified District Maps. In August 2011, the commission certified a set of maps establishing the boundaries for the Senate, Assembly, Board of Equalization, and Congressional districts. In November 2011, proponents submitted signatures in support of a referendum of the certified Senate district maps. Proponents petitioned the California Supreme Court to determine which maps would be used in the June primary and November general elections if the referendum qualified for the ballot. The court found that the certified Senate district maps "appear to comply with all of the constitutionally mandated criteria set forth in the California Constitution," and ruled that they were to be used in the June 2012 primary election and November 2012 general election.

PROPOSAL

This referendum allows the voters to approve or reject the Senate district boundaries certified by the Citizens Redistricting Commission. (The Assembly, Board of Equalization, and Congressional district boundaries certified by the commission are *not* subject to the referendum.) Copies of the certified Senate district maps are included in the back of this voter information guide. A "yes" vote would approve these districts and a "no" vote would reject them.

If Voters Vote "Yes." The Senate district boundaries certified by the commission would be used until the commission establishes new boundaries based on the 2020 federal census.

If Voters Vote "No." The California Supreme Court would appoint "special masters" to establish new Senate district boundaries in accordance with the redistricting criteria specified in the Constitution. (In the past, the court has appointed retired judges to serve as special masters.) The court would certify the new Senate district boundaries. The new boundaries would be used in future elections until the commission establishes new boundaries based on the 2020 federal census.

FISCAL EFFECTS

If the voters vote "yes" and approve the Senate district maps certified by the commission, there would be no effect on state or local governments.

If the voters vote "no" and reject the Senate district maps certified by the commission, the California Supreme Court would appoint special masters to establish new Senate district boundaries. This would result in a one-time cost to the state of about **$500,000**. In addition, counties would incur one-time costs of about **$500,000** statewide to develop new precinct maps and related election materials for the districts.

For text of Proposition 40, see page 130.

PROPOSITION 30

30

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the California Constitution; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE SCHOOLS AND LOCAL PUBLIC SAFETY PROTECTION ACT OF 2012

SECTION 1. Title.

This measure shall be known and may be cited as "The Schools and Local Public Safety Protection Act of 2012."

SEC. 2. Findings.

(a) Over the past four years alone, California has had to cut more than $56 billion from education, police and fire protection, healthcare, and other critical state and local services. These funding cuts have forced teacher layoffs, increased school class sizes, increased college fees, reduced police protection, increased fire response times, exacerbated dangerous overcrowding in prisons, and substantially reduced oversight of parolees.

(b) These cuts in critical services have hurt California's seniors, middle-class working families, children, college students, and small businesses the most. We cannot afford more cuts to education and the other services we need.

(c) After years of cuts and difficult choices, it is necessary to turn the state around. Raising new tax revenue is an investment in our future that will put California back on track for growth and success.

(d) The Schools and Local Public Safety Protection Act of 2012 will make California's tax system more fair. With working families struggling while the wealthiest among us enjoy record income growth, it is only right to ask the wealthy to pay their fair share.

(e) The Schools and Local Public Safety Protection Act of 2012 raises the income tax on those at the highest end of the income scale — those who can most afford it. It also temporarily restores some sales taxes in effect last year, while keeping the overall sales tax rate lower than it was in early 2011.

(f) The new taxes in this measure are temporary. Under the California Constitution the 1/4-cent sales tax increase expires in four years, and the income tax increases for the wealthiest taxpayers end in seven years.

(g) The new tax revenue is guaranteed in the California Constitution to go directly to local school districts and community colleges. Cities and counties are guaranteed ongoing funding for public safety programs such as local police and child protective services. State money is freed up to help balance the budget and prevent even more devastating cuts to services for seniors, working families, and small businesses. Everyone benefits.

(h) To ensure these funds go where the voters intend, they are put in special accounts that the Legislature cannot touch. None of these new revenues can be spent on state bureaucracy or administrative costs.

(i) These funds will be subject to an independent audit every year to ensure they are spent only for schools and public safety. Elected officials will be subject to prosecution and criminal penalties if they misuse the funds.

SEC. 3. Purpose and Intent.

(a) The chief purpose of this measure is to protect schools and local public safety by asking the wealthy to pay their fair share of taxes. This measure takes funds away from state control and places them in special accounts that are exclusively dedicated to schools and local public safety in the state Constitution.

(b) This measure builds on a broader state budget plan that has made billions of dollars in permanent cuts to state spending.

(c) The measure guarantees solid, reliable funding for schools, community colleges, and public safety while helping balance the budget and preventing further devastating cuts to services for seniors, middle-class working families, children, and small businesses.

(d) This measure gives constitutional protection to the shift of local public safety programs from state to local control and the shift of state revenues to local government to pay for those programs. It guarantees that schools are not harmed by providing even more funding than schools would have received without the shift.

(e) This measure guarantees that the new revenues it raises will be sent directly to school districts for classroom expenses, not administrative costs. This school funding cannot be suspended or withheld no matter what happens with the state budget.

(f) All revenues from this measure are subject to local audit every year, and audit by the independent Controller to ensure that they will be used only for schools and local public safety.

SEC. 4. Section 36 is added to Article XIII of the California Constitution, to read:

SEC. 36. (a) For purposes of this section:

(1) "Public Safety Services" includes the following:

(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.

(D) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

(E) Preventing, treating, and providing recovery services for substance abuse.

(2) "2011 Realignment Legislation" means legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to

local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature. However, 2011 Realignment Legislation shall include no new programs assigned to local agencies after January 1, 2012, except for the early periodic screening, diagnosis, and treatment (EPSDT) program and mental health managed care.

(b) (1) Except as provided in subdivision (d), commencing in the 2011–12 fiscal year and continuing thereafter, the following amounts shall be deposited into the Local Revenue Fund 2011, as established by Section 30025 of the Government Code, as follows:

(A) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.

(B) All revenues, less refunds, derived from the vehicle license fees described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1, 2011.

(2) On and after July 1, 2011, the revenues deposited pursuant to paragraph (1) shall not be considered General Fund revenues or proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c) (1) Funds deposited in the Local Revenue Fund 2011 are continuously appropriated exclusively to fund the provision of Public Safety Services by local agencies. Pending full implementation of the 2011 Realignment Legislation, funds may also be used to reimburse the State for program costs incurred in providing Public Safety Services on behalf of local agencies. The methodology for allocating funds shall be as specified in the 2011 Realignment Legislation.

(2) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city and county. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

(3) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

(4) (A) Legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service required by legislation, described in this subparagraph, above the level for which funding has been provided.

(B) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(C) Any new program or higher level of service provided by local agencies, as described in subparagraphs (A) and (B), above the level for which funding has been provided, shall not require a subvention of funds by the State nor otherwise be subject to Section 6 of Article XIII B. This paragraph shall not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B as that paragraph read on January 2, 2011.

(D) The State shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the State provides annual funding for the cost increase.

(E) The State shall not be required to provide a subvention of funds pursuant to this paragraph for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. State funds required by this paragraph shall be from a source other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(5) (A) For programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.

(B) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State. Payment by the

State is not required if the State determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

(C) The state funds provided in this paragraph shall be from funding sources other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) If the State or a local agency fails to perform a duty or obligation under this section or under the 2011 Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

(7) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the State's eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(8) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(d) If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

(e) (1) To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is hereby created in the General Fund to receive and disburse the revenues derived from the incremental increases in taxes imposed by this section, as specified in subdivision (f).

(2) (A) Before June 30, 2013, and before June 30 of each year from 2014 to 2018, inclusive, the Director of Finance shall estimate the total amount of additional revenues, less refunds, that will be derived from the incremental increases in tax rates made in subdivision (f) that will be available for transfer into the Education Protection Account during the next fiscal year. The Director of Finance shall make the same estimate by January 10, 2013, for additional revenues, less refunds, that will be received by the end of the 2012–13 fiscal year.

(B) During the last 10 days of the quarter of each of the first three quarters of each fiscal year from 2013–14 to 2018–19, inclusive, the Controller shall transfer into the Education Protection Account one-fourth of the total amount estimated pursuant to subparagraph (A) for that fiscal year, except as this amount may be adjusted pursuant to subparagraph (D).

(C) In each of the fiscal years from 2012–13 to 2020–21, inclusive, the Director of Finance shall calculate an adjustment to the Education Protection Account, as specified by subparagraph (D), by adding together the following amounts, as applicable:

(i) In the last quarter of each fiscal year from 2012–13 to 2018–19, inclusive, the Director of Finance shall recalculate the estimate made for the fiscal year pursuant to subparagraph (A), and shall subtract from this updated estimate the amounts previously transferred to the Education Protecion Account for that fiscal year.

(ii) In June 2015 and in every June from 2016 to 2021, inclusive, the Director of Finance shall make a final determination of the amount of additional revenues, less refunds, derived from the incremental increases in tax rates made in subdivision (f) for the fiscal year ending two years prior. The amount of the updated estimate calculated in clause (i) for the fiscal year ending two years prior shall be subtracted from the amount of this final determination.

(D) If the sum determined pursuant to subparagraph (C) is positive, the Controller shall transfer an amount equal to that sum into the Education Protection Account within 10 days preceding the end of the fiscal year. If that amount is negative, the Controller shall suspend or reduce subsequent quarterly transfers, if any, to the Education Protection Account until the total reduction equals the negative amount herein described. For purposes of any calculation made pursuant to clause (i) of subparagraph (C), the amount of a quarterly transfer shall not be modified to reflect any suspension or reduction made pursuant to this subparagraph.

(3) All moneys in the Education Protection Account are hereby continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts as set forth in this paragraph.

(A) Eleven percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Board of Governors of the California Community Colleges to community college districts to provide general purpose funding to community college districts in proportion to the amounts determined pursuant to Section 84750.5 of the Education Code, as that code section read upon voter approval of this section. The allocations calculated pursuant to this subparagraph shall be offset by the amounts specified in subdivisions (a), (c), and (d) of Section 84751 of the Education Code, as that section read upon voter approval of this section, that are in excess of the amounts calculated pursuant to Section 84750.5 of the Education Code, as that section read upon voter approval of this section, provided that no community college district shall receive less than one hundred dollars ($100) per full time equivalent student.

(B) Eighty-nine percent of the moneys appropriated pursuant to this paragraph shall be allocated quarterly by the Superintendent of Public Instruction to provide general purpose

funding to school districts, county offices of education, and state general-purpose funding to charter schools in proportion to the revenue limits calculated pursuant to Sections 2558 and 42238 of the Education Code and the amounts calculated pursuant to Section 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon voter approval of this section. The amounts so calculated shall be offset by the amounts specified in subdivision (c) of Section 2558 of, paragraphs (1) through (7) of subdivision (h) of Section 42238 of, and Section 47635 of, the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon voter approval of this section, that are in excess of the amounts calculated pursuant to Sections 2558, 42238, and 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read upon voter approval of this section, provided that no school district, county office of education, or charter school shall receive less than two hundred dollars ($200) per unit of average daily attendance.

(4) This subdivision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Education Protection Account by the Board of Governors of the California Community Colleges and the Superintendent of Public Instruction shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to Section 12 of Article IV, by invocation of paragraph (h) of Section 8 of Article XVI, or by any other action or failure to act by the Legislature or Governor.

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account shall not be used to pay any costs incurred by the Legislature, the Governor, or any agency of state government.

(6) A community college district, county office of education, school district, or charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction, provided, however, that the appropriate governing board or body shall make these spending determinations in open session of a public meeting of the governing board or body and shall not use any of the funds from the Education Protection Account for salaries or benefits of administrators or any other administrative costs. Each community college district, county office of education, school district, and charter school shall annually publish on its Internet Web site an accounting of how much money was received from the Education Protection Account and how that money was spent.

(7) The annual independent financial and compliance audit required of community college districts, county offices of education, school districts, and charter schools shall, in addition to all other requirements of law, ascertain and verify whether the funds provided from the Education Protection Account have been properly disbursed and expended as required by this section. Expenses incurred by those entities to comply with the additional audit requirement of this section may be paid with funding from the Education Protection Account, and shall not be considered administrative costs for purposes of this section.

(8) Revenues, less refunds, derived pursuant to subdivision (f) for deposit in the Education Protection Account pursuant to this section shall be deemed "General Fund revenues," "General Fund proceeds of taxes," and "moneys to be applied by the State for the support of school districts and community college districts" for purposes of Section 8 of Article XVI.

(f) (1) (A) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 2013, and before January 1, 2017.

(B) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, an excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on and after January 1, 2013, and before January 1, 2017, for storage, use, or other consumption in this state at the rate of 1/4 percent of the sales price of the property.

(C) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this paragraph.

(D) This paragraph shall become inoperative on January 1, 2017.

(2) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (a) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A) (i) For that portion of taxable income that is over two hundred fifty thousand dollars ($250,000) but not over three hundred thousand dollars ($300,000), the tax rate is 10.3 percent of the excess over two hundred fifty thousand dollars ($250,000).

(ii) For that portion of taxable income that is over three hundred thousand dollars ($300,000) but not over five hundred thousand dollars ($500,000), the tax rate is 11.3 percent of the excess over three hundred thousand dollars ($300,000).

(iii) For that portion of taxable income that is over five hundred thousand dollars ($500,000), the tax rate is 12.3 percent of the excess over five hundred thousand dollars ($500,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C) (i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this

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paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, 2019.

(3) For any taxable year beginning on or after January 1, 2012, and before January 1, 2019, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (c) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A) (i) For that portion of taxable income that is over three hundred forty thousand dollars ($340,000) but not over four hundred eight thousand dollars ($408,000), the tax rate is 10.3 percent of the excess over three hundred forty thousand dollars ($340,000).

(ii) For that portion of taxable income that is over four hundred eight thousand dollars ($408,000) but not over six hundred eighty thousand dollars ($680,000), the tax rate is 11.3 percent of the excess over four hundred eight thousand dollars ($408,000).

(iii) For that portion of taxable income that is over six hundred eighty thousand dollars ($680,000), the tax rate is 12.3 percent of the excess over six hundred eighty thousand dollars ($680,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C) (i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on the date it becomes effective.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, 2019.

(g) (1) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011, and shall audit the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.

(2) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse of moneys from the County Local Revenue Fund 2011 or the Education Protection Account.

SEC. 5. Effective Date.

Subdivision (b) of Section 36 of Article XIII of the California Constitution, as added by this measure, shall be operative as of July 1, 2011. Paragraphs (2) and (3) of subdivision (f) of Section 36 of Article XIII of the California Constitution, as added by this measure, shall be operative as of January 1, 2012. All other provisions of this measure shall become operative the day after the election in which it is approved by a majority of the voters voting on the measure provided.

SEC. 6. Conflicting Measures.

In the event that this measure and another measure that imposes an incremental increase in the tax rates for personal income shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

SEC. 7. This measure provides funding for school districts and community college districts in an amount that equals or exceeds that which would have been provided if the revenues deposited pursuant to Sections 6051.15 and 6201.15 of the Revenue and Taxation Code pursuant to Chapter 43 of the Statutes of 2011 had been considered "General Fund revenues" or "General Fund proceeds of taxes" for purposes of Section 8 of Article XVI of the California Constitution.

PROPOSITION 31

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the California Constitution and adds sections to the Education Code and the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The Government Performance and Accountability Act

SECTION 1. Findings and Declarations

The people of the State of California hereby find and declare that government must be:

1. Trustworthy. California government has lost the confidence of its citizens and is not meeting the needs of Californians. Taxpayers are entitled to a higher return on their investment and the public deserves better results from government services.

2. Accountable for Results. To restore trust, government at all levels must be accountable for results. The people are entitled to know how tax dollars are being spent and how well government is performing. State and local government agencies must set measurable outcomes for all expenditures and regularly and publicly report progress toward those outcomes.

3. Cost-Effective. California must invest its scarce public resources wisely to be competitive in the global economy. Vital public services must therefore be delivered with increasing effectiveness and efficiency.

4. Transparent. It is essential that the public's business be public. Honesty and openness promote and preserve the integrity of democracy and the relationship between the people and their government.

5. Focused on Results. To improve results, public agencies need a clear and shared understanding of public purpose. With this measure, the people declare that the purpose of state and local governments is to promote a prosperous economy, a quality environment, and community equity. These purposes are advanced by achieving at least the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, and improving health.

6. Cooperative. To make every dollar count, public agencies must work together to reduce bureaucracy, eliminate duplication, and resolve conflicts. They must integrate services and adopt strategies that have been proven to work and can make a difference in the lives of Californians.

7. Closer to the People. Many governmental services are best provided at the local level, where public officials know their communities and residents have access to elected officials. Local governments need the flexibility to tailor programs to the needs of their communities.

8. Supportive of Regional Job Generation. California is composed of regional economies. Many components of economic vitality are best addressed at the regional scale. The State is obliged to enable and encourage local governments to collaborate regionally to enhance the ability to attract capital investment into regional economies to generate well-paying jobs.

9. Willing to Listen. Public participation is essential to ensure a vibrant and responsive democracy and a responsive and accountable government. When government listens, more people are willing to take an active role in their communities and their government.

10. Thrifty and Prudent. State and local governments today spend hundreds of millions of dollars on budget processes that do not tell the public what is being accomplished. Those same funds can be better used to develop budgets that link dollars to goals and communicate progress toward those goals, which is a primary purpose of public budgets.

SEC. 2. Purpose and Intent

In enacting this measure, the people of the State of California intend to:

1. Improve results and accountability to taxpayers and the public by improving the budget process for the state and local governments with existing resources.

2. Make state government more efficient, effective, and transparent through a state budget process that does the following:

a. Focuses budget decisions on what programs are trying to accomplish and whether progress is being made.

b. Requires the development of a two-year budget and a review of every program at least once every five years to make sure money is well spent over time.

c. Requires major new programs and tax cuts to have clearly identified funding sources before they are enacted.

d. Requires legislation—including the Budget Act—to be public for three days before lawmakers can vote on it.

3. Move government closer to the people by enabling and encouraging local governments to work together to save money, improve results, and restore accountability to the public through the following:

a. Focusing local government budget decisions on what programs are trying to accomplish and whether progress is being made.

b. Granting counties, cities, and schools the authority to develop, through a public process, a Community Strategic Action Plan for advancing community priorities that they cannot achieve by themselves.

c. Granting local governments that approve an Action Plan flexibility in how they spend state dollars to improve the outcomes of public programs.

d. Granting local governments that approve an Action Plan the ability to identify state statutes or regulations that impede progress and a process for crafting a local rule for achieving a state requirement.

e. Encouraging local governments to collaborate to achieve goals more effectively addressed at a regional scale.

f. Providing some state funds as an incentive to local governments to develop Action Plans.

g. Requiring local governments to report their progress annually and evaluate their efforts every four years as a condition of continued flexibility—thus restoring accountability of local elected officials to local voters and taxpayers.

4. Involve the people in identifying priorities, setting goals, establishing measurements of results, allocating resources in a budget, and monitoring progress.

5. Implement the budget reforms herein using existing resources currently dedicated to the budget processes of the state and its political subdivisions without significant additional funds. Further, establish the Performance and Accountability Trust Fund from existing tax bases and revenues. No provision herein shall require an increase in any taxes or modification of any tax rate or base.

SEC. 3. Section 8 of Article IV of the California Constitution is amended to read:

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill *other than a bill containing an urgency clause that is passed in a special session called by the Governor to address a state of emergency declared by the Governor arising out of a natural disaster or a terrorist attack* may be passed until the bill with amendments has been ~~printed~~ *in print* and distributed to the members *and available to the public for at least 3 days.* No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.

SEC. 4. Section 9.5 is added to Article IV of the California Constitution, to read:

SEC. 9.5. A bill passed by the Legislature that (1) establishes a new state program, including a state-mandated local program described in Section 6 of Article XIII B, or a new agency, or expands the scope of such an existing state program or agency, the effect of which would, if funded, be a net increase in state costs in excess of twenty-five million dollars ($25,000,000) in that fiscal year or in any succeeding fiscal year, or (2) reduces a state tax or other source of state revenue, the effect of which will be a net decrease in State revenue in excess of twenty-five million dollars ($25,000,000) in that fiscal year or in any succeeding fiscal year, is void unless offsetting state program reductions or additional revenue, or a combination thereof, are provided in the bill or another bill in an amount that equals or exceeds the net increase in state costs or net decrease in state revenue. The twenty-five-million-dollar ($25,000,000) threshold specified in this section shall be adjusted annually for inflation pursuant to the California Consumer Price Index.

SEC. 5. Section 10 of Article IV of the California Constitution is amended to read:

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two-thirds of the membership concurring, it becomes a statute.

(b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any *bill passed by the Legislature before June 30 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after June 30 that is not returned on or before July 31 of that year becomes a statute. In addition, any* bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) *(1)* Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after ~~September 1 of an even-numbered year~~ *June 30 of the second year of the biennium* except ~~statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes~~ *bills that take effect immediately,* and bills passed after being vetoed by the Governor.

(2) No bill may be introduced or considered in the second year of the biennium that is substantially the same and has the same effect as any introduced or amended version of a measure that did not pass the house of origin by January 31 of the second calendar year of the biennium as required in paragraph (1).

(d) *(1)* The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session. *On the first Monday following July 4 of the second year of the biennium, the Legislature shall convene, as part of its regular session, to conduct program oversight and review. The Legislature shall establish an oversight process for evaluating and improving the performance of programs undertaken by the State or by local agencies implementing state-funded programs on behalf of the State based on performance standards set forth in statute and in the biennial Budget Act. Within one year of the effective date of this provision, a review schedule shall be established for all state programs whether managed by a state or local agency implementing state-funded programs on behalf of the State. The schedule shall sequence the review of similar programs so that relationships among program objectives can be identified and reviewed. The review process shall result in recommendations*

in the form of proposed legislation that improves or terminates programs. Each program shall be reviewed at least once every five years.

(2) The process established for program oversight under paragraph (1) shall also include a review of Community Strategic Action Plans adopted pursuant to Article XI A for the purpose of determining whether any state statutes or regulations that have been identified by the participating local government agencies as state obstacles to improving results should be amended or repealed as requested by the participating local government agencies based on a review of at least three years of experience with the Community Strategic Action Plans. The review shall assess whether the Action Plans have improved the delivery and effectiveness of services in all parts of the community identified in the plan.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

(f) (1) If, following the enactment of the budget bill for the 2004–05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency. *In response to the Governor's proclamation, the Legislature may present to the Governor a bill or bills to address the fiscal emergency.*

(2) If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(3) A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect. *For purposes of paragraphs (2) and (4), the inclusion of this statement shall be deemed to mean conclusively that the bill addresses the fiscal emergency. A bill addressing the fiscal emergency declared pursuant to this section that contains a statement to that effect, and is passed and sent to the Governor by the 45th day following the issuance of the proclamation declaring the fiscal emergency, shall take effect immediately upon enactment.*

(4) (A) If the Legislature has not passed and sent to the Governor a bill or bills to address a fiscal emergency by the 45th day following the issuance of the proclamation declaring the fiscal emergency, the Governor may, by executive order, reduce or eliminate any existing General Fund appropriation for that fiscal year to the extent the appropriation is not otherwise required by this Constitution or by federal law. The total amount of appropriations reduced or eliminated by the Governor shall be limited to the amount necessary to cause General Fund expenditures for the fiscal year in question not to exceed the most recent estimate of General Fund revenues made pursuant to paragraph (1).

(B) If the Legislature is in session, it may, within 20 days after the Governor issues an executive order pursuant to subparagraph (A), override all or part of the executive order by a rollcall vote entered in the journal, two-thirds of the membership of each house concurring. If the Legislature is not in session when the Governor issues the executive order, the Legislature shall have 30 days to reconvene and override all or part of the executive order by resolution by the vote indicated above. An executive order or a part thereof that is not overridden by the Legislature shall take effect the day after the period to override the executive order has expired. Subsequent to the 45th day following the issuance of the proclamation declaring the fiscal emergency, the prohibition set forth in paragraph (2) shall cease to apply when (i) one or more executive orders issued pursuant to this paragraph have taken effect, or (ii) the Legislature has passed and sent to the Governor a bill or bills to address the fiscal emergency.

(C) A bill to restore balance to the budget pursuant to subparagraph (B) may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation, provided, however, that any bill that imposes a new tax or increases an existing tax must be passed by a two-thirds vote of the Members of each house of the Legislature.

SEC. 6. Section 12 of Article IV of the California Constitution is amended to read:

SEC. 12. (a) *(1)* Within the first 10 days of each *odd-numbered* calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing *two* fiscal ~~year~~ *years*, containing itemized statements for recommended state expenditures and estimated *total* state ~~revenues~~ *resources available to meet those expenditures. The itemized statement of estimated total state resources available to meet recommended expenditures submitted pursuant to this subdivision shall identify the amount, if any, of those resources that are anticipated to be one-time resources. The two-year budget, which shall include a budget for the budget year and a budget for the succeeding fiscal year, shall be known collectively as the biennial budget. Within the first 10 days of each even-numbered year, the Governor may submit a supplemental budget to amend or augment the enacted biennial budget.*

(b) The biennial budget shall contain all of the following elements to improve performance and accountability:

(1) An estimate of the total resources available for the expenditures recommended for the budget year and the succeeding fiscal year.

(2) A projection of anticipated expenditures and anticipated

revenues for the three fiscal years following the fiscal year succeeding the budget year.

(3) A statement of how the budget will promote the purposes of achieving a prosperous economy, quality environment, and community equity, by working to achieve at least the following goals: increasing employment; improving education; decreasing poverty; decreasing crime; and improving health.

(4) A description of the outcome measures that will be used to assess progress and report results to the public and of the performance standards for state agencies and programs.

(5) A statement of the outcome measures for each major expenditure of state government for which public resources are proposed to be appropriated in the budget and their relationship to the overall purposes and goals set forth in paragraph (3).

(6) A statement of how the State will align its expenditure and investment of public resources with that of other government entities that implement state functions and programs on behalf of the State to achieve the purposes and goals set forth in paragraph (3).

(7) A public report on progress in achieving the purposes and goals set forth in paragraph (3) and an evaluation of the effectiveness in achieving the purposes and goals according to the outcome measures set forth in the preceding year's budget.

(c) If, *for the budget year and the succeeding fiscal year, collectively,* recommended expenditures exceed estimated revenues, the Governor shall recommend *reductions in expenditures or* the sources from which the additional revenues should be provided, *or both. To the extent practical, the recommendations shall include an analysis of the long-term impact that expenditure reductions or additional revenues would have on the state economy. Along with the biennial budget, the Governor shall submit to the Legislature any legislation required to implement appropriations contained in the biennial budget, together with a five-year capital infrastructure and strategic growth plan, as specified by statute.*

(d) If the Governor's budget proposes to (1) establish a new state program, including a state-mandated local program described in Section 6 of Article XIII B, or a new agency, or expand the scope of an existing state program or agency, the effect of which would, if funded, be a net increase in state costs in excess of twenty-five million dollars ($25,000,000) in that fiscal year or in any succeeding fiscal year, or (2) reduce a state tax or other source of state revenue, the effect of which will be a net decrease in state revenue in excess of twenty-five million dollars ($25,000,000) in that fiscal year or any succeeding fiscal year, the budget shall propose offsetting state program reductions or additional revenue, or a combination thereof, in an amount that equals or exceeds the net increase in state costs or net decrease in state revenue. The twenty-five-million-dollar ($25,000,000) threshold specified in this subdivision shall annually be adjusted for inflation pursuant to the California Consumer Price Index.

~~(b)~~ *(e)* The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the *biennial* budget *and any supplemental budget.*

~~(c)~~ *(f)* (1) The *biennial* budget *and any supplemental budget* shall be accompanied by a budget bill itemizing recommended expenditures *for the budget year and the succeeding fiscal year. A supplemental budget bill shall be accompanied by a bill proposing the supplemental budget.*

(2) The budget bill *and other bills providing for appropriations related to the budget bill or a supplemental budget bill, as submitted by the Governor,* shall be introduced immediately in each house by the persons chairing the committees that consider the budget.

(3) On or before May 1 of each year, after the appropriate committees of each house of the Legislature have considered the budget bill, each house shall refer the budget bill to a joint committee of the Legislature, which may include a conference committee, which shall review the budget bill and other bills providing for appropriations related to the budget bill and report its recommendations to each house no later than June 1 of each year. This shall not preclude the referral of any of these bills to policy committees in addition to a joint committee.

~~(3)~~ *(4)* The Legislature shall pass the budget bill *and other bills providing for appropriations related to the budget bill* by midnight on June 15 of each year. *Appropriations made in the budget bill, or in other bills providing for appropriations related to the budget bill, for the succeeding fiscal year shall not be expended in the budget year.*

~~(4)~~ *(5)* Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the ~~fiscal~~ *budget* year *or the succeeding fiscal year* ~~for which the budget bill is to be enacted~~, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

~~(d)~~ *(g)* No bill except the budget bill *or the supplemental budget bill* may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools and appropriations in the budget bill, *the supplemental budget bill,* and in other bills providing for appropriations related to the budget bill, are void unless passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring.

~~(e)~~ *(h)* (1) Notwithstanding any other provision of law or of this Constitution, the budget bill, *the supplemental budget bill,* and other bills providing for appropriations related to the budget bill may be passed in each house by rollcall vote entered in the journal, a majority of the membership concurring, to take effect immediately upon being signed by the Governor or upon a date specified in the legislation. Nothing in this subdivision shall affect the vote requirement for appropriations for the public schools contained in subdivision ~~(d)~~ *(g)* of this section and in subdivision (b) of Section 8 of this article.

(2) For purposes of this section, "other bills providing for appropriations related to the budget bill *or a supplemental budget bill*" shall consist only of bills identified as related to the budget in the budget bill *or in the supplemental budget bill* passed by the Legislature.

(3) For purposes of this section, "budget bill" shall mean the bill or bills containing the budget for the budget year and the succeeding fiscal year.

~~(f)~~ *(i)* The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

~~(g)~~ *(j)* For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature ~~may~~ *shall* not send to the Governor for consideration, nor ~~may~~ *shall* the Governor sign into law, a budget bill *for the budget year or for the succeeding fiscal year* that would appropriate from the General Fund, for ~~that~~ *each* fiscal year *of the biennial budget*, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues, *transfers, and balances available from the prior fiscal year* for that fiscal year estimated as of the date of the budget bill's passage. ~~That~~ *The* estimate of General Fund revenues, *transfers, and balances* shall be set forth in the budget bill passed by the Legislature. *The budget bill passed by the Legislature shall also contain a statement of the total General Fund obligations described in this subdivision for each fiscal year of the biennial budget, together with an explanation of the basis for the estimate of General Fund revenues, including an explanation of the amount by which the Legislature projects General Fund revenues for that fiscal year to differ from General Fund revenues for the immediately preceding fiscal year.*

~~(h)~~ *(k)* Notwithstanding any other provision of law or of this Constitution, including subdivision ~~(c)~~ *(f)* of this section, Section 4 of this article, and Sections 4 and 8 of Article III, in any year in which the budget bill is not passed by the Legislature by midnight on June 15, there shall be no appropriation from the current budget or future budget to pay any salary or reimbursement for travel or living expenses for Members of the Legislature during any regular or special session for the period from midnight on June 15 until the day that the budget bill is presented to the Governor. No salary or reimbursement for travel or living expenses forfeited pursuant to this subdivision shall be paid retroactively.

SEC. 7. Article XI A is added to the California Constitution, to read:

ARTICLE XI A
COMMUNITY STRATEGIC ACTION PLANS

SECTION 1. (a) Californians expect and require that local government entities publicly explain the purpose of expenditures and whether progress is being made toward their goals. Therefore, in addition to the requirements of any other provision of this Constitution, the adopted budget of each local government entity shall contain all of the following as they apply to the entity's powers and duties:

(1) A statement of how the budget will promote, as applicable to a local government entity's functions, role, and locally determined priorities, a prosperous economy, quality environment, and community equity, as reflected in the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, improving health, and other community priorities.

(2) A description of the overall outcome measurements that will be used to assess progress in all parts of the community toward the goals established by the local government entity pursuant to paragraph (1).

(3) A statement of the outcome measurement for each major expenditure of government for which public resources are appropriated in the budget and the relationship to the overall goals established by the local government entity pursuant to paragraph (1).

(4) A statement of how the local government entity will align its expenditure and investment of public resources to achieve the goals established by the local government entity pursuant to paragraph (1).

(5) A public report on progress in achieving the goals established by the local government entity pursuant to paragraph (1) and an evaluation of the effectiveness in achieving the outcomes according to the measurements set forth in the previous year's budget.

(b) Each local government entity shall develop and implement an open and transparent process that encourages the participation of all aspects of the community in the development of its proposed budget, including identifying community priorities pursuant to paragraph (1) of subdivision (a).

(c) This section shall become operative in the budget year of the local government entity that commences in the year 2014.

(d) The provisions of this section are self-executing and are to be interpreted to apply only to those activities over which local entities exercise authority.

SEC. 2. (a) A county, by action of the board of supervisors, may initiate the development of a Community Strategic Action Plan, hereinafter referred to as the Action Plan. The county shall invite the participation of all other local government entities within the county whose existing functions or services are within the anticipated scope of the Action Plan. Any local government entity within the county may petition the board of supervisors to initiate an Action Plan, to be included in the planning process, or to amend the Action Plan.

(b) The participating local government entities shall draft an Action Plan through an open and transparent process that encourages the participation of all aspects of the community, including neighborhood leaders. The Action Plan shall include all of the following:

(1) A statement that (A) outlines how the Action Plan will achieve the purposes and goals set forth in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1 of this article, (B) describes the public services that will be delivered pursuant to the Action Plan and the roles and responsibilities of the participating entities, (C) explains why those services will be delivered more effectively and efficiently pursuant to the Action Plan, (D) provides for an allocation of resources to support the plan, including funds that may be received from the Performance and Accountability Trust Fund, (E) considers disparities within communities served by the Action Plan, and (F) explains how the Action Plan is consistent with the budgets adopted by the participating local government entities.

(2) The outcomes desired by the participating local government entities and how those outcomes will be measured.

(3) A method for regularly reporting outcomes to the public and to the State.

(c) (1) The Action Plan shall be submitted to the governing bodies of each of the participating local government entities within the county. To ensure a minimum level of collaboration, the Action Plan must be approved by the county, local government entities providing municipal services pursuant to the Action Plan to at least a majority of the population in the county, and one or more school districts serving at least a majority of the public school pupils in the county.

(2) The approval of the Action Plan, or an amendment to the Action Plan, by a local government entity, including the county, shall require a majority vote of the membership of the governing body of that entity. The Action Plan shall not apply to any local government entity that does not approve the Action Plan as provided in this paragraph.

(d) Once an Action Plan is adopted, a county may enter into contracts that identify and assign the duties and obligations of each of the participating entities, provided that such contracts are necessary for implementation of the Action Plan and are approved by a majority vote of the governing body of each local government entity that is a party to the contract.

(e) Local government entities that have adopted an Action Plan pursuant to this section and have satisfied the requirements of Section 3 of this article, if applicable, may integrate state or local funds that are allocated to them for the purpose of providing the services identified by the Action Plan in a manner that will advance the goals of the Action Plan.

SEC. 3. (a) If the parties to an Action Plan adopted pursuant to Section 2 of this article conclude that a state statute or regulation, including a statute or regulation restricting the expenditure of funds, impedes progress toward the goals of the Action Plan or they need additional statutory authority to implement the Action Plan, the local government entities may include provisions in the Action Plan that are functionally equivalent to the objective or objectives of the applicable statute or regulation. The provision shall include a description of the intended state objective, of how the rule is an obstacle to better outcomes, of the proposed community rule, and of how the community rule will contribute to better outcomes while advancing a prosperous economy, quality environment, and community equity. For purposes of this section, a provision is functionally equivalent to the objective or objectives of a statute or regulation if it substantially complies with the policy and purpose of the statute or regulation.

(b) The parties shall submit an Action Plan containing the functionally equivalent provisions described in subdivision (a) with respect to one or more state statutes to the Legislature during a regular or special session. If, within 60 days following its receipt of the Action Plan, the Legislature takes no concurrent action, by resolution or otherwise, to disapprove the provisions, the provisions shall be deemed to be operative, with the effect in law that compliance with the provisions shall be deemed compliance with the state statute or statutes.

(c) If the parties to an Action Plan adopted pursuant to Section 2 of this article conclude that a regulation impedes the goals of the Action Plan, they may follow the procedure described in subdivision (a) of this section by submitting their proposal to the agency or department responsible for promulgating or administering the regulation, which shall consider the proposal within 60 days. If, within 60 days following its receipt of the Action Plan, the agency or department takes no action to disapprove the provisions, the provisions shall be deemed to be operative, with the effect in law that compliance with the provisions shall be deemed compliance with the state regulation or regulations. Any action to disapprove the provision shall include a statement setting forth the reasons for doing so.

(d) This section shall apply only to statutes or regulations that directly govern the administration of a state program that is financed in whole or in part with state funds.

(e) Any authority granted pursuant to this section shall automatically expire four years after the effective date, unless renewed pursuant to this section.

SEC. 4. (a) The Performance and Accountability Trust Fund is hereby established in the State Treasury for the purpose of providing state resources for the implementation of integrated service delivery contained in the Community Strategic Action Plans prepared pursuant to this article. Notwithstanding Section 13340 of the Government Code, money in the fund shall be continuously appropriated solely for the purposes provided in this article. For purposes of Section 8 of Article XVI, the revenues transferred to the Performance and Accountability Trust Fund pursuant to the act that added this article shall be considered General Fund proceeds of taxes which may be appropriated pursuant to Article XIII B.

(b) Money in the Performance and Accountability Trust Fund shall be distributed according to statute to counties whose Action Plans include a budget for expenditure of the funds that satisfies Sections 1 and 2 of this article.

(c) Any funds allocated to school districts pursuant to an Action Plan must be paid for from a revenue source other than the Performance and Accountability Trust Fund, and may be paid from any other source as determined by the entities participating in the Action Plan. The allocation received by any school district pursuant to an Action Plan shall not be considered General Fund proceeds of taxes or allocated local proceeds of taxes for purposes of Section 8 of Article XVI.

SEC. 5. A county that has adopted an Action Plan pursuant to Section 2 of this article shall evaluate the effectiveness of the Action Plan at least once every four years. The evaluation process shall include an opportunity for public comments, and for those comments to be included in the final report. The evaluation shall be used by the participating entities to improve the Action Plan and by the public to assess the performance of its government. The evaluation shall include a review of the extent to which the Action Plan has achieved the purposes and goals set forth in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1, including: improving the outcomes among the participating entities in the delivery and effectiveness of the applicable governmental services; progress toward reducing community disparities; and whether the individuals or community members receiving those services were represented in the development and implementation of the Action Plan.

SEC. 6. (a) The State shall consider how it can help local government entities deliver services more effectively and efficiently through an Action Plan adopted pursuant to Section 2. Consistent with this goal, the State or any department

or agency thereof may enter into contracts with one or more local government entities that are participants in an Action Plan to perform any function that the contracting parties determine can be more efficiently and effectively performed at the local level. Any contract made pursuant to this section shall conform to the Action Plan adopted pursuant to the requirements of Section 2.

(b) The State shall consider and determine how it can support, through financial and regulatory incentives, efforts by local government entities and representatives of the public to work together to address challenges and to resolve problems that local government entities have voluntarily and collaboratively determined are best addressed at the geographic scale of a region in order to advance a prosperous economy, quality environment, and community equity. The State shall promote the vitality and global competitiveness of regional economies and foster greater collaboration among local governments within regions by providing priority consideration for state-administered funds for infrastructure and human services, as applicable, to those participating local government entities that have voluntarily developed a regional collaborative plan and are making progress toward the purposes and goals of their plan, which shall incorporate the goals and purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1.

SEC. 7. Nothing in this article is intended to abrogate or supersede any existing authority enjoyed by local government entities, nor to discourage or prohibit local government entities from developing and participating in regional programs and plans designed to improve the delivery and efficiency of government services.

SEC. 8. For purposes of this article, the term "local government entity" shall mean a county, city, city and county, and any other local government entity, including school districts, county offices of education, and community college districts.

SEC. 8. Section 29 of Article XIII of the California Constitution is amended to read:

SEC. 29. (a) The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them that is collected for them by the State. Before the contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election.

(b) Notwithstanding subdivision (a), on and after the operative date of this subdivision, counties, cities and counties, and cities, may enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or any successor provisions, that is collected for them by the State, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract.

(c) Notwithstanding subdivision (a), counties, cities and counties, cities, and any other local government entities, including school districts and community college districts, that are parties to a Community Strategic Action Plan adopted pursuant to Article XI A may enter into contracts to apportion between and among them the revenue they receive from ad valorem property taxes allocated to them, if the ordinance or resolution proposing each contract is approved by a two-thirds vote of the governing body of each jurisdiction that is a party to the contract. Contracts entered into pursuant to this section shall be consistent with each participating entity's budget adopted in accordance with Section 1 of Article XI A.

SEC. 9. Chapter 6 (commencing with Section 55750) is added to Part 2 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 6. COMMUNITY STRATEGIC ACTION PLANS

55750. (a) Notwithstanding Section 7101 of the Revenue and Taxation Code or any other provision of law, beginning in the 2013–14 fiscal year, the amount of revenues, net of refunds, collected pursuant to Section 6051 of the Revenue and Taxation Code and attributable to a rate of 0.035 percent shall be deposited in the State Treasury to the credit of the Performance and Accountability Trust Fund, as established pursuant to Section 4 of Article XI A of the California Constitution, and shall be used exclusively for the purposes for which that fund is created.

(b) To the extent that the Legislature reduces the sales tax base and that reduction results in less revenue to the Performance and Accountability Trust Fund than the fund received in the 2013–14 fiscal year, the Controller shall transfer from the General Fund to the Performance and Accountability Trust Fund an amount that when added to the revenues received by the Performance and Accountability Trust Fund in that fiscal year equals the amount of revenue received by the fund in the 2013–14 fiscal year.

55751. (a) Notwithstanding Section 7101 of the Revenue and Taxation Code or any other provision of law, beginning in the 2013–14 fiscal year, the amount of revenues, net of refunds, collected pursuant to Section 6201 of the Revenue and Taxation Code and attributable to a rate of 0.035 percent shall be deposited in the State Treasury to the credit of the Performance and Accountability Trust Fund, as established pursuant to Section 4 of Article XI A of the California Constitution, and shall be used exclusively for the purposes for which that fund is created.

(b) To the extent that the Legislature reduces the use tax base and that reduction results in less revenue to the Performance and Accountability Trust Fund than the fund received in the 2013–14 fiscal year, the Controller shall transfer from the General Fund to the Performance and Accountability Trust Fund an amount that when added to the revenues received by the Performance and Accountability Trust Fund in that fiscal year equals the amount of revenue received by the fund in the 2013–14 fiscal year.

55752. (a) In the 2014–15 fiscal year and every subsequent fiscal year, the Controller shall distribute funds in the Performance and Accountability Trust Fund established pursuant to Section 4 of Article XI A of the California Constitution to each county that has adopted a Community Strategic Action Plan that is in effect on or before June 30 of the preceding fiscal year, and that has submitted its Action Plan to

the Controller for the purpose of requesting funding under this section. The distribution shall be made in the first quarter of the fiscal year. Of the total amount available for distribution from the Performance and Accountability Trust Fund in a fiscal year, the Controller shall apportion to each county Performance and Accountability Trust Fund, which is hereby established, to assist in funding its Action Plan, a percentage equal to the percentage computed for that county under subdivision (c).

(b) As used in this section, the population served by a Community Strategic Action Plan is the population of the geographic area that is the sum of the population of all of the participating local government entities, provided that a resident served by one or more local government entities shall be counted only once. The Action Plan shall include a calculation of the population of the geographic area served by the Action Plan, according to the most recent Department of Finance demographic data.

(c) The Controller shall determine the population served by each county's Action Plan as a percentage of the total population computed for all of the Action Plans that are eligible for funding pursuant to subdivision (a).

(d) The funds provided pursuant to Section 4 of Article XI A of the California Constitution and this chapter represent in part ongoing savings that accrue to the state that are attributable to the 2011 realignment and to the measure that added this section. Four years following the first allocation of funds pursuant to this section, the Legislative Analyst's Office shall assess the fiscal impact of the Action Plans and the extent to which the plans have improved the efficiency and effectiveness of service delivery or reduced the demand for state-funded services.

SEC. 10. Section 42246 is added to the Education Code, to read:

42246. Funds contributed or received by a school district pursuant to its participation in a Community Strategic Action Plan authorized by Article XI A of the California Constitution shall not be considered in calculating the state's portion of the district's revenue limit under Section 42238 or any successor statute.

SEC. 11. Section 9145 is added to the Government Code, to read:

9145. For the purposes of Sections 9.5 and 12 of Article IV of the California Constitution, the following definitions shall apply:

(a) "Expand the scope of an existing state program or agency" does not include any of the following:

(1) Restoring funding to an agency or program that was reduced or eliminated in any fiscal year subsequent to the 2008–09 fiscal year to balance the budget or address a forecasted deficit.

(2) Increases in state funding for a program or agency to fund its existing statutory responsibilities, including increases in the cost of living or workload, and any increase authorized by a memorandum of understanding approved by the Legislature.

(3) Growth in state funding for a program or agency as required by federal law or a law that is in effect as of the effective date of the measure adding this section.

(4) Funding to cover one-time expenditures for a state program or agency, as so identified in the statute that appropriates the funding.

(5) Funding for a requirement described in paragraph (5) of subdivision (b) of Section 6 of Article XIII B of the California Constitution.

(b) "State costs" do not include costs incurred for the payment of principal or interest on a state general obligation bond.

(c) "Additional revenue" includes, but is not limited to, revenue to the state that results from specific changes made by federal or state law and that the state agency responsible for collecting the revenue has quantified and determined to be a sustained increase.

SEC. 12. Section 11802 is added to the Government Code, to read:

11802. No later than June 30, 2013, the Governor shall, after consultation with state employees and other interested parties, submit to the Legislature a plan to implement the performance-based budgeting provisions of Section 12 of Article IV of the California Constitution. The plan shall be fully implemented in the 2015–16 fiscal year and in each subsequent fiscal year.

SEC. 13. Section 13308.03 is added to the Government Code, to read:

13308.03. In addition to the requirements set forth in Section 13308, the Director of Finance shall:

(a) By May 15 of each year, submit to the Legislature and make available to the public updated projections of state revenue and state expenditures for the budget year and the succeeding fiscal year either as proposed in the budget bill pending in one or both houses of the Legislature or as appropriated in the enacted budget bill, as applicable.

(b) Immediately prior to passage of the biennial budget, or any supplemental budget, by the Legislature, submit to the Legislature a statement of total revenues and total expenditures for the budget year and the succeeding fiscal year, which shall be incorporated into the budget bill.

(c) By November 30 of each year, submit a fiscal update containing actual year-to-date revenues and expenditures for the current year compared to the revenues and expenditures set forth in the adopted budget to the Legislature. This requirement may be satisfied by the publication of the Fiscal Outlook Report by the Legislative Analyst's Office.

SEC. 14. Amendment

The statutory provisions of this measure may be amended solely to further the purposes of this measure by a bill approved by a two-thirds vote of the Members of each house of the Legislature and signed by the Governor.

SEC. 15. Severability

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, that finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

SEC. 16. Effective Date

Sections 4, 5, and 6 of this Act shall become operative on the first Monday of December in 2014. Unless otherwise specified in the Act, the other sections of the act shall become operative the day after the election at which the act is adopted.

SEC. 17. Legislative Counsel

(a) The people find and declare that the amendments proposed by this measure to Section 12 of Article IV of the California Constitution are consistent with the amendments to Section 12 of Article IV of the California Constitution proposed by Assembly Constitutional Amendment No. 4 of the 2009–10 Regular Session (Res. Ch. 174, Stats. 2010) (hereafter ACA 4), which will appear on the statewide general election ballot of November 4, 2014.

(b) For purposes of the Legislative Counsel's preparation and proofreading of the text of ACA 4 pursuant to Sections 9086 and 9091 of the Elections Code, and Sections 88002 and 88005.5 of the Government Code, the existing provisions of Section 12 of Article IV of the California Constitution shall be deemed to be the provisions of that section as amended by this measure. The Legislative Counsel shall prepare and proofread the text of ACA 4, accordingly, to distinguish the changes proposed by ACA 4 to Section 12 of Article IV of the California Constitution from the provisions of Section 12 of Article IV of the California Constitution as amended by this measure. The Secretary of State shall place the complete text of ACA 4, as prepared and proofread by the Legislative Counsel pursuant to this section, in the ballot pamphlet for the statewide general election ballot of November 4, 2014.

PROPOSITION 32

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title, Findings, and Declaration of Purpose

A. Special interests have too much power over government. Every year, corporations and unions contribute millions of dollars to politicians, and the public interest is buried beneath the mountain of special-interest spending.

B. Yet, for many years, California's government has failed its people. Our state is billions of dollars in debt and many local governments are on the verge of bankruptcy. Too often politicians ignore the public's need in favor of the narrow special interests of corporations, labor unions, and government contractors who make contributions to their campaigns.

C. These contributions yield special tax breaks and public contracts for big business, costly government programs that enrich private labor unions, and unsustainable pensions, benefits, and salaries for public employee union members, all at the expense of California taxpayers.

D. Even contribution limits in some jurisdictions have not slowed the flow of corporate and union political money into the political process. So much of the money overwhelming California's politics starts as automatic deductions from workers' paychecks. Corporate employers and unions often pressure, sometimes subtly and sometimes overtly, workers to give up a portion of their paycheck to support the political objectives of the corporation or union. Their purpose is to amass millions of dollars to gain influence with our elected leaders without any regard for the political views of the employees who provide the money.

E. For these reasons, and in order to curb actual corruption and the appearance of corruption of our government by corporate and labor union contributions, the people of the State of California hereby enact the Stop Special Interest Money Now Act in order to:

1. Ban both corporate and labor union contributions to candidates;

2. Prohibit government contractors from contributing money to government officials who award them contracts;

3. Prohibit corporations and labor unions from collecting political funds from employees and union members using the inherently coercive means of payroll deduction; and

4. Make all employee political contributions by any other means strictly voluntary.

SEC. 2. The Stop Special Interest Money Now Act

Article 1.5 (commencing with Section 85150) is added to Chapter 5 of Title 9 of the Government Code, to read:

Article 1.5. The Stop Special Interest Money Now Act

85150. (a) Notwithstanding any other provision of law and this title, no corporation, labor union, or public employee labor union shall make a contribution to any candidate, candidate controlled committee; or to any other committee, including a political party committee, if such funds will be used to make contributions to any candidate or candidate controlled committee.

(b) Notwithstanding any other provision of law and this title, no government contractor, or committee sponsored by a government contractor, shall make a contribution to any elected officer or committee controlled by any elected officer if such elected officer makes, participates in making, or in any way attempts to use his or her official position to influence the granting, letting, or awarding of a public contract to the government contractor during the period in which the decision to grant, let, or award the contract is to be made and during the term of the contract.

85151. (a) Notwithstanding any other provision of law and this title, no corporation, labor union, public employee labor union, government contractor, or government employer shall deduct from an employee's wages, earnings, or compensation any amount of money to be used for political purposes.

(b) This section shall not prohibit an employee from making voluntary contributions to a sponsored committee of his or her employer, labor union, or public employee labor union in any manner, other than that which is prohibited by subdivision (a), so long as all such contributions are given with that employee's written consent, which consent shall be effective for no more than one year.

(c) This section shall not apply to deductions for retirement

benefit, health, life, death or disability insurance, or other similar benefit, nor shall it apply to an employee's voluntary deduction for the benefit of a charitable organization organized under Section 501(c)(3) of Title 26 of the United States Code.

85152. For purposes of this article, the following definitions apply:

(a) "Corporation" means every corporation organized under the laws of this state, any other state of the United States, or the District of Columbia, or under an act of the Congress of the United States.

(b) "Government contractor" means any person, other than an employee of a government employer, who is a party to a contract between the person and a government employer to provide goods, real property, or services to a government employer. Government contractor includes a public employee labor union that is a party to a contract with a government employer.

(c) "Government employer" means the State of California or any of its political subdivisions, including, but not limited to, counties, cities, charter counties, charter cities, charter city and counties, school districts, the University of California, special districts, boards, commissions, and agencies, but not including the United States government.

(d) "Labor union" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(e) "Political purposes" means a payment made to influence or attempt to influence the action of voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or any payment received by or made at the behest of a candidate, a controlled committee, a committee of a political party, including a state central committee, and county central committee, or an organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union, public employee labor union, or corporation.

(f) "Public employee labor union" means a labor union in which the employees participating in the labor union are employees of a government employer.

(g) All other terms used this article that are defined by the Political Reform Act of 1974, as amended (Title 9 (commencing with Section 81000)), or by regulation enacted by the Fair Political Practices Commission, shall have the same meaning as provided therein, as they existed on January 1, 2011.

SEC. 3. Implementation

(a) If any provision of this measure, or part of it, or the application of any such provision or part to any person, organization, or circumstance, is for any reason held to be invalid or unconstitutional, then the remaining provisions, parts, and applications shall remain in effect without the invalid provision, part, or application.

(b) This measure is not intended to interfere with any existing contract or collective bargaining agreement. Except as governed by the National Labor Relations Act, no new or amended contract or collective bargaining agreement shall be valid if it violates this measure.

(c) This measure shall be liberally construed to further its purposes. In any legal action brought by an employee or union member to enforce the provisions of this act, the burden shall be on the employer or labor union to prove compliance with the provisions herein.

(d) Notwithstanding Section 81012 of the Government Code, the provisions of this measure may not be amended by the Legislature. This measure may only be amended or repealed by a subsequent initiative measure or pursuant to subdivision (c) of Section 10 of Article II of the California Constitution.

PROPOSITION 33

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the Insurance Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title

This measure shall be known as the 2012 Automobile Insurance Discount Act.

SEC. 2. The people of the State of California find and declare that:

(a) Under California law, the Insurance Commissioner regulates insurance rates and determines what discounts auto insurance companies can give to drivers.

(b) It is in the best interest of California insurance consumers to be allowed to receive discounted prices if they have continuously followed the state's mandatory insurance laws, regardless of which insurance company they have used.

(c) A consumer discount for continuous automobile coverage rewards responsible behavior. That discount should belong to the consumer, not the insurance company.

(d) A personal discount for maintaining continuous coverage creates competition among insurance companies and is an incentive for more consumers to purchase and maintain automobile insurance.

SEC. 3. Purpose

The purpose of this measure is to allow California insurance consumers to obtain discounted insurance rates if they have continuously followed the mandatory insurance law.

SEC. 4. Section 1861.023 is added to the Insurance Code, to read:

1861.023. (a) Notwithstanding paragraph (4) of subdivision (a) of Section 1861.02, an insurance company may use continuous coverage as an optional auto insurance rating factor for any insurance policy subject to Section 1861.02.

(b) For purposes of this section, "continuous coverage" shall mean uninterrupted automobile insurance coverage with any admitted insurer or insurers, including coverage provided pursuant to the California Automobile Assigned Risk Plan or the California Low-Cost Automobile Insurance Program.

(1) Continuous coverage shall be deemed to exist if there is a lapse in coverage due to an insured's active military service.

(2) Continuous coverage shall be deemed to exist even if there is a lapse in coverage of up to 18 months in the last five years due to loss of employment resulting from a layoff or furlough.

(3) Continuous coverage shall be deemed to exist even if there is a lapse of coverage of not more 90 days in the previous five years for any reason.

(4) Children residing with a parent shall be provided a discount for continuous coverage based upon the parent's eligibility for a continuous coverage discount.

(c) Consumers who are unable to demonstrate continuous coverage shall be granted a proportional discount. This discount shall be a proportion of the amount of the rate of reduction that would have been granted if the consumer had been able to demonstrate continuous coverage. The proportion shall reflect the number of whole years in the immediately preceding five years for which the consumer was insured.

SEC. 5. Conflicting Ballot Measures

In the event that this measure and another measure or measures relating to continuity of coverage shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

SEC. 6. Amendment

The provisions of this act shall not be amended by the Legislature except to further its purposes by a statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring.

SEC. 7. Severability

It is the intent of the people that the provisions of this act are severable and that if any provision of this act, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application.

PROPOSITION 34

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and repeals sections of the Penal Code and adds sections to the Government Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The SAFE California Act

SECTION 1. Title

This initiative shall be known and may be cited as "The Savings, Accountability, and Full Enforcement for California Act," or "The SAFE California Act."

SEC. 2. Findings and Declarations

The people of the State of California do hereby find and declare all of the following:

1. Murderers and rapists need to be stopped, brought to justice, and punished. Yet, on average, a shocking 46 percent of homicides and 56 percent of rapes go unsolved every year. Our limited law enforcement resources should be used to solve more crimes, to get more criminals off our streets, and to protect our families.

2. Police, sheriffs, and district attorneys now lack the funding they need to quickly process evidence in rape and murder cases, to use modern forensic science such as DNA testing, or even hire enough homicide and sex offense investigators. Law enforcement should have the resources needed for full enforcement of the law. By solving more rape and murder cases and bringing more criminals to justice, we keep our families and communities safer.

3. Many people think the death penalty is less expensive than life in prison without the possibility of parole, but that's just not true. California has spent $4 billion on the death penalty since 1978 and death penalty trials are 20 times more expensive than trials seeking life in prison without the possibility of parole, according to a study by former death penalty prosecutor and judge, Arthur Alarcon, and law professor Paula Mitchell. By replacing the death penalty with life in prison without the possibility of parole, California taxpayers would save well over $100 million every year. That money could be used to improve crime prevention and prosecution.

4. Killers and rapists walk our streets free and threaten our safety, while we spend hundreds of millions of taxpayer dollars on a select few who are already behind bars forever on death row. These resources would be better spent on violence prevention and education, to keep our families safe.

5. By replacing the death penalty with life in prison without the possibility of parole, we would save the state $1 billion in five years without releasing a single prisoner–$1 billion that could be invested in law enforcement to keep our communities safer, in our children's schools, and in services for the elderly and disabled. Life in prison without the possibility of parole ensures that the worst criminals stay in prison forever and saves money.

6. More than 100 innocent people have been sentenced to death in this country and some innocent people have actually been executed. Experts concluded that Cameron Todd Willingham was wrongly executed for a fire that killed his three children. With the death penalty, we will always risk executing innocent people.

7. Experts have concluded that California remains at risk of executing an innocent person. Innocent people are wrongfully convicted because of faulty eyewitness identification, outdated forensic science, and overzealous prosecutions. We are not doing what we need to do to protect the innocent. State law even protects a prosecutor if he or she intentionally sends an innocent person to prison, preventing accountability to taxpayers and victims. Replacing the death penalty with life in prison without the possibility of parole will at least ensure that we do not execute an innocent person.

8. Convicted murderers must be held accountable and pay for their crimes. Today, less than 1 percent of inmates on death row work and, as a result, they pay little restitution to victims. Every person convicted of murder should be required to work in a high-security prison and money earned should be used to help victims through the victim's compensation fund, consistent with the victims' rights guaranteed by Marsy's Law.

9. California's death penalty is an empty promise. Death penalty cases drag on for decades. A sentence of life in prison without the possibility of parole provides faster resolution for grieving families and is a more certain punishment.

10. Retroactive application of this act will end a costly and ineffective practice, free up law enforcement resources to increase the rate at which homicide and rape cases are solved, and achieve fairness, equality and uniformity in sentencing.

SEC. 3. Purpose and Intent

The people of the State of California declare their purpose and intent in enacting the act to be as follows:

1. To get more murderers and rapists off the streets and to protect our families.

2. To save the taxpayers $1 billion in five years so those dollars can be invested in local law enforcement, our children's schools, and services for the elderly and disabled.

3. To use some of the savings from replacing the death penalty to create the SAFE California Fund, to provide funding for local law enforcement, specifically police departments, sheriffs, and district attorney offices, to increase the rate at which homicide and rape cases are solved.

4. To eliminate the risk of executing innocent people.

5. To require that persons convicted of murder with special circumstances remain behind bars for the rest of their lives, with mandatory work in a high-security prison, and that money earned be used to help victims through the victim's compensation fund.

6. To end the more than 25-year-long process of review in death penalty cases, with dozens of court dates and postponements that grieving families must bear in memory of loved ones.

7. To end a costly and ineffective practice and free up law enforcement resources to keep our families safe.

8. To achieve fairness, equality and uniformity in sentencing, through retroactive application of this act to replace the death penalty with life in prison without the possibility of parole.

SEC. 4. Section 190 of the Penal Code is amended to read:

190. (a) Every person guilty of murder in the first degree shall be punished by ~~death,~~ imprisonment in the state prison for life without the possibility of parole~~,~~ or imprisonment in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections ~~190.1,~~ 190.2, ~~190.3,~~ 190.4, and 190.5.

Except as provided in subdivision (b), (c), or (d), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 15 years to life.

(b) Except as provided in subdivision (c), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties.

(c) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of life without the possibility of parole if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties, and any of the following facts has been charged and found true:

(1) The defendant specifically intended to kill the peace officer.

(2) The defendant specifically intended to inflict great bodily injury, as defined in Section 12022.7, on a peace officer.

(3) The defendant personally used a dangerous or deadly weapon in the commission of the offense, in violation of subdivision (b) of Section 12022.

(4) The defendant personally used a firearm in the commission of the offense, in violation of Section 12022.5.

(d) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.

(e) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of a sentence imposed pursuant to this section. A person sentenced pursuant to this section shall not be released on parole prior to serving the minimum term of confinement prescribed by this section.

(f) Every person found guilty of murder and sentenced pursuant to this section shall be required to work within a high-security prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations of the Department of Corrections and Rehabilitation, pursuant to Section 2700. In any case where the prisoner owes a restitution fine or restitution order, the Secretary of the Department of Corrections and Rehabilitation shall deduct money from the wages and trust account deposits of the prisoner and shall transfer those funds to the California Victim Compensation and Government Claims Board according to the rules and regulations of the Department of Corrections and Rehabilitation, pursuant to Sections 2085.5 and 2717.8.

SEC. 5. Section 190.1 of the Penal Code is repealed.

~~190.1. A case in which the death penalty may be imposed pursuant to this chapter shall be tried in separate phases as follows:~~

~~(a) The question of the defendant's guilt shall be first determined. If the trier of fact finds the defendant guilty of first degree murder, it shall at the same time determine the truth of~~

~~all special circumstances charged as enumerated in Section 190.2 except for a special circumstance charged pursuant to paragraph (2) of subdivision (a) of Section 190.2 where it is alleged that the defendant had been convicted in a prior proceeding of the offense of murder in the first or second degree.~~

~~(b) If the defendant is found guilty of first degree murder and one of the special circumstances is charged pursuant to paragraph (2) of subdivision (a) of Section 190.2 which charges that the defendant had been convicted in a prior proceeding of the offense of murder of the first or second degree, there shall thereupon be further proceedings on the question of the truth of such special circumstance.~~

~~(c) If the defendant is found guilty of first degree murder and one or more special circumstances as enumerated in Section 190.2 has been charged and found to be true, his sanity on any plea of not guilty by reason of insanity under Section 1026 shall be determined as provided in Section 190.4. If he is found to be sane, there shall thereupon be further proceedings on the question of the penalty to be imposed. Such proceedings shall be conducted in accordance with the provisions of Section 190.3 and 190.4.~~

SEC. 6. Section 190.2 of the Penal Code is amended to read:

190.2. (a) The penalty for a defendant who is found guilty of murder in the first degree is ~~death or~~ imprisonment in the state prison for life without the possibility of parole if one or more of the following special circumstances has been found under Section 190.4 to be true:

(1) The murder was intentional and carried out for financial gain.

(2) The defendant was convicted previously of murder in the first or second degree. For the purpose of this paragraph, an offense committed in another jurisdiction, which if committed in California would be punishable as first or second degree murder, shall be deemed murder in the first or second degree.

(3) The defendant, in this proceeding, has been convicted of more than one offense of murder in the first or second degree.

(4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden, or concealed in any place, area, dwelling, building, or structure, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to one or more human beings.

(5) The murder was committed for the purpose of avoiding or preventing a lawful arrest, or perfecting or attempting to perfect, an escape from lawful custody.

(6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or caused to be mailed or delivered, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to one or more human beings.

(7) The victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties; or the victim was a peace officer, as defined in the above-enumerated sections, or a former peace officer under any of those sections, and was intentionally killed in retaliation for the performance of his or her official duties.

(8) The victim was a federal law enforcement officer or agent who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a federal law enforcement officer or agent engaged in the performance of his or her duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the performance of his or her official duties.

(9) The victim was a firefighter, as defined in Section 245.1, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a firefighter engaged in the performance of his or her duties.

(10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his or her testimony in any criminal or juvenile proceeding, and the killing was not committed during the commission or attempted commission, of the crime to which he or she was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his or her testimony in any criminal or juvenile proceeding. As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.

(11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this or any other state, or of a federal prosecutor's office, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(12) The victim was a judge or former judge of any court of record in the local, state, or federal system in this or any other state, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(13) The victim was an elected or appointed official or former official of the federal government, or of any local or state government of this or any other state, and the killing was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(14) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity. As used in this section, the phrase "especially heinous, atrocious, or cruel, manifesting exceptional depravity" means a conscienceless or pitiless crime that is unnecessarily torturous to the victim.

(15) The defendant intentionally killed the victim by means of lying in wait.

(16) The victim was intentionally killed because of his or her race, color, religion, nationality, or country of origin.

(17) The murder was committed while the defendant was engaged in, or was an accomplice in, the commission of, attempted commission of, or the immediate flight after committing, or attempting to commit, the following felonies:

(A) Robbery in violation of Section 211 or 212.5.

(B) Kidnapping in violation of Section 207, 209, or 209.5.

(C) Rape in violation of Section 261.

(D) Sodomy in violation of Section 286.

(E) The performance of a lewd or lascivious act upon the person of a child under the age of 14 years in violation of Section 288.

(F) Oral copulation in violation of Section 288a.

(G) Burglary in the first or second degree in violation of Section 460.

(H) Arson in violation of subdivision (b) of Section 451.

(I) Train wrecking in violation of Section 219.

(J) Mayhem in violation of Section 203.

(K) Rape by instrument in violation of Section 289.

(L) Carjacking, as defined in Section 215.

(M) To prove the special circumstances of kidnapping in subparagraph (B), or arson in subparagraph (H), if there is specific intent to kill, it is only required that there be proof of the elements of those felonies. If so established, those two special circumstances are proven even if the felony of kidnapping or arson is committed primarily or solely for the purpose of facilitating the murder.

(18) The murder was intentional and involved the infliction of torture.

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(19) The defendant intentionally killed the victim by the administration of poison.

(20) The victim was a juror in any court of record in the local, state, or federal system in this or any other state, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(21) The murder was intentional and perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person or persons outside the vehicle with the intent to inflict death. For purposes of this paragraph, "motor vehicle" means any vehicle as defined in Section 415 of the Vehicle Code.

(22) The defendant intentionally killed the victim while the defendant was an active participant in a criminal street gang, as defined in subdivision (f) of Section 186.22, and the murder was carried out to further the activities of the criminal street gang.

(b) Unless an intent to kill is specially required under subdivision (a) for a special circumstance enumerated therein, an actual killer, as to whom the special circumstance has been found to be true under Section 190.4, need not have had any intent to kill at the time of the commission of the offense which is the basis of the special circumstance in order to suffer ~~death or~~ confinement in the state prison for life without the possibility of parole.

(c) Every person, not the actual killer, who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists any actor in the commission of murder in the first degree shall be punished by ~~death or~~ imprisonment in the state prison for life without the possibility of parole if one or more of the special circumstances enumerated in subdivision (a) has been found to be true under Section 190.4.

(d) Notwithstanding subdivision (c), every person, not the actual killer, who, with reckless indifference to human life and as a major participant, aids, abets, counsels, commands, induces, solicits, requests, or assists in the commission of a felony enumerated in paragraph (17) of subdivision (a) which results in the death of some person or persons, and who is found guilty of murder in the first degree therefor, shall be punished by ~~death or~~ imprisonment in the state prison for life without the possibility of parole if a special circumstance enumerated in paragraph (17) of subdivision (a) has been found to be true under Section 190.4.

The penalty shall be determined as provided in this section and Sections ~~190.1, 190.3,~~ 190.4~~,~~ and 190.5.

SEC. 7. Section 190.3 of the Penal Code is repealed.

~~190.3. If the defendant has been found guilty of murder in the first degree, and a special circumstance has been charged and found to be true, or if the defendant may be subject to the death penalty after having been found guilty of violating subdivision (a) of Section 1672 of the Military and Veterans Code or Sections 37, 128, 219, or 4500 of this code, the trier of fact shall determine whether the penalty shall be death or confinement in state prison for a term of life without the possibility of parole. In the proceedings on the question of penalty, evidence may be presented by both the people and the defendant as to any matter relevant to aggravation, mitigation, and sentence including, but not limited to, the nature and circumstances of the present offense, any prior felony conviction or convictions whether or not such conviction or convictions involved a crime of violence, the presence or absence of other criminal activity by the defendant which involved the use or attempted use of force or violence or which involved the express or implied threat to use force or violence, and the defendant's character, background, history, mental condition and physical condition.~~

~~However, no evidence shall be admitted regarding other criminal activity by the defendant which did not involve the use or attempted use of force or violence or which did not involve the express or implied threat to use force or violence. As used in this section, criminal activity does not require a conviction.~~

~~However, in no event shall evidence of prior criminal activity be admitted for an offense for which the defendant was prosecuted and acquitted. The restriction on the use of this evidence is intended to apply only to proceedings pursuant to this section and is not intended to affect statutory or decisional law allowing such evidence to be used in any other proceedings.~~

~~Except for evidence in proof of the offense or special circumstances which subject a defendant to the death penalty, no evidence may be presented by the prosecution in aggravation unless notice of the evidence to be introduced has been given to the defendant within a reasonable period of time as determined by the court, prior to trial. Evidence may be introduced without such notice in rebuttal to evidence introduced by the defendant in mitigation.~~

~~The trier of fact shall be instructed that a sentence of confinement to state prison for a term of life without the possibility of parole may in future after sentence is imposed, be commuted or modified to a sentence that includes the possibility of parole by the Governor of the State of California.~~

~~In determining the penalty, the trier of fact shall take into account any of the following factors if relevant:~~

~~(a) The circumstances of the crime of which the defendant~~

~~was convicted in the present proceeding and the existence of any special circumstances found to be true pursuant to Section 190.1.~~

~~(b) The presence or absence of criminal activity by the defendant which involved the use or attempted use of force or violence or the express or implied threat to use force or violence.~~

~~(c) The presence or absence of any prior felony conviction.~~

~~(d) Whether or not the offense was committed while the defendant was under the influence of extreme mental or emotional disturbance.~~

~~(e) Whether or not the victim was a participant in the defendant's homicidal conduct or consented to the homicidal act.~~

~~(f) Whether or not the offense was committed under circumstances which the defendant reasonably believed to be a moral justification or extenuation for his conduct.~~

~~(g) Whether or not defendant acted under extreme duress or under the substantial domination of another person.~~

~~(h) Whether or not at the time of the offense the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired as a result of mental disease or defect, or the affects of intoxication.~~

~~(i) The age of the defendant at the time of the crime.~~

~~(j) Whether or not the defendant was an accomplice to the offense and his participation in the commission of the offense was relatively minor.~~

~~(k) Any other circumstance which extenuates the gravity of the crime even though it is not a legal excuse for the crime.~~

~~After having heard and received all of the evidence, and after having heard and considered the arguments of counsel, the trier of fact shall consider, take into account and be guided by the aggravating and mitigating circumstances referred to in this section, and shall impose a sentence of death if the trier of fact concludes that the aggravating circumstances outweigh the mitigating circumstances. If the trier of fact determines that the mitigating circumstances outweigh the aggravating circumstances the trier of fact shall impose a sentence of confinement in state prison for a term of life without the possibility of parole.~~

SEC. 8. Section 190.4 of the Penal Code is amended to read:

190.4. (a) Whenever special circumstances as enumerated in Section 190.2 are alleged and the trier of fact finds the defendant guilty of first degree murder, the trier of fact shall also make a special finding on the truth of each alleged special circumstance. The determination of the truth of any or all of the special circumstances shall be made by the trier of fact on the evidence presented at the trial ~~or at the hearing held pursuant to Subdivision (b) of Section 190.1~~.

In case of a reasonable doubt as to whether a special circumstance is true, the defendant is entitled to a finding that is not true. The trier of fact shall make a special finding that each special circumstance charged is either true or not true. Whenever a special circumstance requires proof of the commission or attempted commission of a crime, such crime shall be charged and proved pursuant to the general law applying to the trial and conviction of the crime.

If the defendant was convicted by the court sitting without a jury, the trier of fact shall be a jury unless a jury is waived by the defendant and by the people, in which case the trier of fact shall be the court. If the defendant was convicted by a plea of guilty, the trier of fact shall be a jury unless a jury is waived by the defendant and by the people.

If the trier of fact finds that any one or more of the special circumstances enumerated in Section 190.2 as charged is true, ~~there shall be a separate penalty hearing~~ *the defendant shall be punished by imprisonment in state prison for life without the possibility of parole,* ~~and neither the finding that any of the remaining special circumstances charged is not true, nor if the trier of fact is a jury, the inability of the jury to agree on the issue of the truth or untruth of any of the remaining special circumstances charged, shall prevent the holding of a separate penalty hearing~~.

~~In any case in which the defendant has been found guilty by a jury, and the jury has been unable to reach an unanimous verdict that one or more of the special circumstances charged are true, and does not reach a unanimous verdict that all the special circumstances charged are not true, the court shall dismiss the jury and shall order a new jury impaneled to try the issues, but the issue of guilt shall not be tried by such jury, nor shall such jury retry the issue of the truth of any of the special circumstances which were found by an unanimous verdict of the previous jury to be untrue. If such new jury is unable to reach the unanimous verdict that one or more of the special circumstances it is trying are true, the court shall dismiss the jury and in the court's discretion shall either order a new jury impaneled to try the issues the previous jury was unable to reach the unanimous verdict on, or impose a punishment of confinement in state prison for a term of 25 years.~~

~~(b) If defendant was convicted by the court sitting without a jury the trier of fact at the penalty hearing shall be a jury unless a jury is waived by the defendant and the people, in which case the trier of fact shall be the court. If the defendant was convicted by a plea of guilty, the trier of fact shall be a jury unless a jury is waived by the defendant and the people.~~

~~If the trier of fact is a jury and has been unable to reach a unanimous verdict as to what the penalty shall be, the court shall dismiss the jury and shall order a new jury impaneled to try the issue as to what the penalty shall be. If such new jury is unable to reach a unanimous verdict as to what the penalty shall be, the court in its discretion shall either order a new jury or impose a punishment of confinement in state prison for a term of life without the possibility of parole.~~

~~(c)~~ *(b)* If the trier of fact which convicted the defendant of a crime for which he may be subject to *imprisonment in state prison for life without the possibility of parole* ~~the death penalty~~ was a jury, the same jury shall consider any plea of not guilty by reason of insanity pursuant to Section 1026, *and* the truth of any special circumstances which may be alleged~~, and the penalty to be applied~~, unless for good cause shown the court discharges that jury in which case a new jury shall be drawn. The court shall state facts in support of the finding of good cause upon the record and cause them to be entered into the minutes.

~~(d) In any case in which the defendant may be subject to the death penalty, evidence presented at any prior phase of the trial,~~

~~including any proceeding under a plea of not guilty by reason of insanity pursuant to Section 1026 shall be considered an any subsequent phase of the trial, if the trier of fact of the prior phase is the same trier of fact at the subsequent phase.~~

~~(e) In every case in which the trier of fact has returned a verdict or finding imposing the death penalty, the defendant shall be deemed to have made an application for modification of such verdict or finding pursuant to Subdivision 7 of Section 11. In ruling on the application, the judge shall review the evidence, consider, take into account, and be guided by the aggravating and mitigating circumstances referred to in Section 190.3, and shall make a determination as to whether the jury's findings and verdicts that the aggravating circumstances outweigh the mitigating circumstances are contrary to law or the evidence presented. The judge shall state on the record the reasons for his findings.~~

~~The judge shall set forth the reasons for his ruling on the application and direct that they be entered on the Clerk's minutes. The denial of the modification of the death penalty verdict pursuant to subdivision (7) of Section 1181 shall be reviewed on the defendant's automatic appeal pursuant to subdivision (b) of Section 1239. The granting of the application shall be reviewed on the People's appeal pursuant to paragraph (6).~~

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SEC. 9. Chapter 33 (commencing with Section 7599) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 33. SAFE CALIFORNIA FUND TO INVESTIGATE UNSOLVED RAPES AND MURDERS

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Article 1. Creation of SAFE California Fund

7599. A special fund to be known as the "SAFE California Fund" is created within the State Treasury and is continuously appropriated for carrying out the purposes of this division.

Article 2. Appropriation and Allocation of Funds

7599.1. Funding Appropriation

On January 1, 2013, ten million dollars ($10,000,000) shall be transferred from the General Fund to the SAFE California Fund for the 2012–13 fiscal year and shall be continuously appropriated for the purposes of the act that added this chapter. On July 1 of each of fiscal years 2013–14, 2014–15 and 2015–16, an additional sum of thirty million dollars ($30,000,000) shall be transferred from the General Fund to the SAFE California Fund and shall be continuously appropriated for the purposes of the act that added this chapter. Funds transferred to the SAFE California Fund shall be used exclusively for the purposes of the act that added this chapter and shall not be subject to appropriation or transfer by the Legislature for any other purpose. The funds in the SAFE California Fund may be used without regard to fiscal year.

7599.2. Distribution of Moneys from SAFE California Fund

(a) At the direction of the Attorney General, the Controller shall disburse moneys deposited in the SAFE California Fund to police departments, sheriffs and district attorney offices, for the purpose of increasing the rate at which homicide and rape cases are solved. Projects and activities that may be funded include, but are not limited to, faster processing of physical evidence collected in rape cases, improving forensic science capabilities including DNA analysis and matching, increasing staffing in homicide and sex offense investigation or prosecution units, and relocation of witnesses. Moneys from the SAFE California Fund shall be allocated to police departments, sheriffs and district attorney offices through a fair and equitable distribution formula to be determined by the Attorney General.

(b) Any costs associated with the allocation and distribution of these funds shall be deducted from the SAFE California Fund. The Attorney General and Controller shall make every effort to keep the costs of allocation and distribution at or close to zero, to ensure that the maximum amount of funding is allocated to programs and activities that increase the rate at which homicide and rape cases are solved.

SEC. 10. Retroactive Application of act

(a) In order to best achieve the purpose of this act as stated in Section 3 and to achieve fairness, equality and uniformity in sentencing, this act shall be applied retroactively.

(b) In any case where a defendant or inmate was sentenced to death prior to the effective date of this act, the sentence shall automatically be converted to imprisonment in the state prison for life without the possibility of parole under the terms and conditions of this act. The State of California shall not carry out any execution following the effective date of this act.

(c) Following the effective date of this act, the Supreme Court may transfer all death penalty appeals and habeas petitions pending before the Supreme Court to any district of the Court of Appeal or superior court, in the Supreme Court's discretion.

SEC. 11. Effective Date

This act shall become effective on the day following the election pursuant to subdivision (a) of Section 10 of Article II of the California Constitution.

SEC. 12. Severability

The provisions of this act are severable. If any provision of this act or its application is held invalid, including but not limited to Section 10, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

PROPOSITION 35

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds a section to the Evidence Code and amends and adds a chapter heading and sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

CALIFORNIANS AGAINST SEXUAL EXPLOITATION ACT ("CASE ACT")

SECTION 1. Title.

This measure shall be known and may be cited as the "Californians Against Sexual Exploitation Act" ("CASE Act").

SEC. 2. Findings and Declarations.

The people of the State of California find and declare:

1. Protecting every person in our state, particularly our children, from all forms of sexual exploitation is of paramount importance.

2. Human trafficking is a crime against human dignity and a grievous violation of basic human and civil rights. Human trafficking is modern slavery, manifested through the exploitation of another's vulnerabilities.

3. Upwards of 300,000 American children are at risk of commercial sexual exploitation, according to a United States Department of Justice study. Most are enticed into the sex trade at the age of 12 to 14 years old, but some are trafficked as young as four years old. Because minors are legally incapable of consenting to sexual activity, these minors are victims of human trafficking whether or not force is used.

4. While the rise of the Internet has delivered great benefits to California, the predatory use of this technology by human traffickers and sex offenders has allowed such exploiters a new means to entice and prey on vulnerable individuals in our state.

5. We need stronger laws to combat the threats posed by human traffickers and online predators seeking to exploit women and children for sexual purposes.

6. We need to strengthen sex offender registration requirements to deter predators from using the Internet to facilitate human trafficking and sexual exploitation.

SEC. 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting the CASE Act to be as follows:

1. To combat the crime of human trafficking and ensure just and effective punishment of people who promote or engage in the crime of human trafficking.

2. To recognize trafficked individuals as victims and not criminals, and to protect the rights of trafficked victims.

3. To strengthen laws regarding sexual exploitation, including sex offender registration requirements, to allow law enforcement to track and prevent online sex offenses and human trafficking.

SEC. 4. Section 1161 is added to the Evidence Code, to read:

1161. (a) Evidence that a victim of human trafficking, as defined in Section 236.1 of the Penal Code, has engaged in any commercial sexual act as a result of being a victim of human trafficking is inadmissible to prove the victim's criminal liability for any conduct related to that activity.

(b) Evidence of sexual history or history of any commercial sexual act of a victim of human trafficking, as defined in Section 236.1 of the Penal Code, is inadmissible to attack the credibility or impeach the character of the victim in any civil or criminal proceeding.

SEC. 5. The heading of Chapter 8 (commencing with Section 236) of Title 8 of Part 1 of the Penal Code is amended to read:

CHAPTER 8. FALSE IMPRISONMENT *AND HUMAN TRAFFICKING*

SEC. 6. Section 236.1 of the Penal Code is amended to read:

236.1. (a) Any person who deprives or violates the personal liberty of another with the intent ~~to effect or maintain a felony violation of Section 266, 266h, 266i, 267, 311.4, or 518, or~~ to obtain forced labor or services, is guilty of human trafficking *and shall be punished by imprisonment in the state prison for 5, 8, or 12 years and a fine of not more than five hundred thousand dollars ($500,000).*

~~(b) Except as provided in subdivision (c), a violation of this section is punishable by imprisonment in the state prison for three, four, or five years.~~

~~(c) A violation of this section where the victim of the trafficking was under 18 years of age at the time of the commission of the offense is punishable by imprisonment in the state prison for four, six, or eight years.~~

~~(d) (1) For purposes of this section, unlawful deprivation or violation of the personal liberty of another includes substantial and sustained restriction of another's liberty accomplished through fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.~~

~~(2) Duress includes knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the victim.~~

~~(e) For purposes of this section, "forced labor or services" means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, or coercion, or equivalent conduct that would reasonably overbear the will of the person.~~

(b) Any person who deprives or violates the personal liberty of another with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking and shall be punished by imprisonment in the state prison for 8, 14, or 20 years and a fine of not more than five hundred thousand dollars ($500,000).

(c) Any person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking. A violation of this subdivision is punishable by imprisonment in the state prison as follows:

(1) Five, 8, or 12 years and a fine of not more than five hundred thousand dollars ($500,000).

(2) Fifteen years to life and a fine of not more than five hundred thousand dollars ($500,000) when the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person.

(d) In determining whether a minor was caused, induced, or persuaded to engage in a commercial sex act, the totality of the circumstances, including the age of the victim, his or her relationship to the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be considered.

(e) Consent by a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section.

(f) Mistake of fact as to the age of a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section.

~~(f)~~ *(g)* The Legislature finds that the definition of human trafficking in this section is equivalent to the federal definition of a severe form of trafficking found in Section 7102(8) of Title 22 of the United States Code.

~~(g) (l) In addition to the penalty specified in subdivision (c), any person who commits human trafficking involving a commercial sex act where the victim of the human trafficking was under 18 years of age at the time of the commission of the offense shall be punished by a fine of not more than one hundred thousand dollars ($100,000).~~

~~(2) As used in this subdivision, "commercial sex act" means any sexual conduct on account of which anything of value is given or received by any person.~~

~~(h) Every fine imposed and collected pursuant to this section shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund services for victims of human trafficking. At least 50 percent of the fines collected and deposited pursuant to this section shall be granted to community-based organizations that serve victims of human trafficking.~~

(h) For purposes of this chapter, the following definitions apply:

(1) "Coercion" includes any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; the abuse or threatened abuse of the legal process; debt bondage; or providing and facilitating the possession of any controlled substance to a person with the intent to impair the person's judgment.

(2) "Commercial sex act" means sexual conduct on account of which anything of value is given or received by any person.

(3) "Deprivation or violation of the personal liberty of another" includes substantial and sustained restriction of another's liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

(4) "Duress" includes a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to cause a reasonable person to acquiesce in or perform an act which he or she would otherwise not have submitted to or performed; a direct or implied threat to destroy, conceal, remove, confiscate, or possess any actual or purported passport or immigration document of the victim; or knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the victim.

(5) "Forced labor or services" means labor or services that are performed or provided by a person and are obtained or maintained through force, fraud, duress, or coercion, or equivalent conduct that would reasonably overbear the will of the person.

(6) "Great bodily injury" means a significant or substantial physical injury.

(7) "Minor" means a person less than 18 years of age.

(8) "Serious harm" includes any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor, services, or commercial sexual acts in order to avoid incurring that harm.

(i) The total circumstances, including the age of the victim, the relationship between the victim and the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be factors to consider in determining the presence of "deprivation or violation of the personal liberty of another," "duress," and "coercion" as described in this section.

SEC. 7. Section 236.2 of the Penal Code is amended to read:

236.2. Law enforcement agencies shall use due diligence to identify all victims of human trafficking, regardless of the citizenship of the person. When a peace officer comes into contact with a person who has been deprived of his or her personal liberty, *a minor who has engaged in a commercial sex act*, a person suspected of violating subdivision (a) or (b) of Section 647, or a victim of a crime of domestic violence or ~~rape~~ *sexual assault*, the peace officer shall consider whether the following indicators of human trafficking are present:

(a) Signs of trauma, fatigue, injury, or other evidence of poor care.

(b) The person is withdrawn, afraid to talk, or his or her communication is censored by another person.

(c) The person does not have freedom of movement.

(d) The person lives and works in one place.

(e) The person owes a debt to his or her employer.

(f) Security measures are used to control who has contact with the person.

(g) The person does not have control over his or her own government-issued identification or over his or her worker immigration documents.

SEC. 8. Section 236.4 is added to the Penal Code, to read:

236.4. (a) Upon the conviction of a person of a violation of Section 236.1, the court may, in addition to any other penalty, fine, or restitution imposed, order the defendant to pay an additional fine not to exceed one million dollars ($1,000,000). In setting the amount of the fine, the court shall consider any relevant factors, including, but not limited to, the seriousness and gravity of the offense, the circumstances and duration of its commission, the amount of economic gain the defendant derived as a result of the crime, and the extent to which the victim suffered losses as a result of the crime.

(b) Any person who inflicts great bodily injury on a victim in the commission or attempted commission of a violation of Section 236.1 shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 7, or 10 years.

(c) Any person who has previously been convicted of a violation of any crime specified in Section 236.1 shall receive an additional and consecutive term of imprisonment in the state prison for 5 years for each additional conviction on charges separately brought and tried.

(d) Every fine imposed and collected pursuant to Section 236.1 and this section shall be deposited in the Victim-Witness Assistance Fund, to be administered by the California Emergency Management Agency (Cal EMA), to fund grants for services for victims of human trafficking. Seventy percent of the fines collected and deposited shall be granted to public agencies and nonprofit corporations that provide shelter, counseling, or other direct services for trafficked victims. Thirty percent of the fines collected and deposited shall be granted to law enforcement and prosecution agencies in the jurisdiction in which the charges were filed to fund human trafficking prevention, witness protection, and rescue operations.

SEC. 9. Section 290 of the Penal Code is amended to read:

290. (a) Sections 290 to ~~290.023~~ *290.024*, inclusive, shall be known and may be cited as the Sex Offender Registration Act. All references to "the Act" in those sections are to the Sex Offender Registration Act.

(b) Every person described in subdivision (c), for the rest of his or her life while residing in California, or while attending school or working in California, as described in Sections 290.002 and 290.01, shall be required to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides, and shall be required to register thereafter in accordance with the Act.

(c) The following persons shall be required to register:

Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289, Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, *subdivision (b) and (c) of Section 236.1,* Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the above-mentioned offenses.

SEC. 10. Section 290.012 of the Penal Code is amended to read:

290.012. (a) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subdivision (b) of Section 290. At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in paragraphs (1) to ~~(3)~~ *(5)*, inclusive of subdivision (a) of Section 290.015. The registering agency shall give the registrant a copy of the registration requirements from the Department of Justice form.

(b) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice. Every person who, as a sexually violent predator, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense to the penalties prescribed in subdivision (f) of Section 290.018.

(c) In addition, every person subject to the Act, while living as a transient in California, shall update his or her registration at least every 30 days, in accordance with Section 290.011.

(d) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN).

SEC. 11. Section 290.014 of the Penal Code is amended to read:

290.014. *(a)* If any person who is required to register pursuant to the Act changes his or her name, the person shall inform, in person, the law enforcement agency or agencies with which he or she is currently registered within five working days. The law enforcement agency or agencies shall forward a copy of this information to the Department of Justice within three working days of its receipt.

(b) If any person who is required to register pursuant to the Act adds or changes his or her account with an Internet service provider or adds or changes an Internet identifier, the person shall send written notice of the addition or change to the law enforcement agency or agencies with which he or she is currently registered within 24 hours. The law enforcement agency or agencies shall make this information available to the Department of Justice. Each person to whom this subdivision applies at the time this subdivision becomes effective shall immediately provide the information required by this subdivision.

SEC. 12. Section 290.015 of the Penal Code is amended to read:

290.015. (a) A person who is subject to the Act shall register, or reregister if he or she has previously registered, upon release from incarceration, placement, commitment, or release on probation pursuant to subdivision (b) of Section 290.

This section shall not apply to a person who is incarcerated for less than 30 days if he or she has registered as required by the Act, he or she returns after incarceration to the last registered address, and the annual update of registration that is required to occur within five working days of his or her birthday, pursuant to subdivision (a) of Section 290.012, did not fall within that incarceration period. The registration shall consist of all of the following:

(1) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.

(2) The fingerprints and a current photograph of the person taken by the registering official.

(3) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.

(4) A list of any and all Internet identifiers established or used by the person.

(5) A list of any and all Internet service providers used by the person.

(6) A statement in writing, signed by the person, acknowledging that the person is required to register and update the information in paragraphs (4) and (5), as required by this chapter.

~~(4)~~ *(7)* Notice to the person that, in addition to the requirements of the Act, he or she may have a duty to register in any other state where he or she may relocate.

~~(5)~~ *(8)* Copies of adequate proof of residence, which shall be limited to a California driver's license, California identification card, recent rent or utility receipt, printed personalized checks or other recent banking documents showing that person's name and address, or any other information that the registering official believes is reliable. If the person has no residence and no reasonable expectation of obtaining a residence in the foreseeable future, the person shall so advise the registering official and shall sign a statement provided by the registering official stating that fact. Upon presentation of proof of residence to the registering official or a signed statement that the person has no residence, the person shall be allowed to register. If the person claims that he or she has a residence but does not have any proof of residence, he or she shall be allowed to register but shall furnish proof of residence within 30 days of the date he or she is allowed to register.

(b) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(c) (1) If a person fails to register in accordance with subdivision (a) after release, the district attorney in the jurisdiction where the person was to be paroled or to be on probation may request that a warrant be issued for the person's arrest and shall have the authority to prosecute that person pursuant to Section 290.018.

(2) If the person was not on parole or probation at the time of release, the district attorney in the following applicable jurisdiction shall have the authority to prosecute that person pursuant to Section 290.018:

(A) If the person was previously registered, in the jurisdiction in which the person last registered.

(B) If there is no prior registration, but the person indicated on the Department of Justice notice of sex offender registration requirement form where he or she expected to reside, in the jurisdiction where he or she expected to reside.

(C) If neither subparagraph (A) nor (B) applies, in the jurisdiction where the offense subjecting the person to registration pursuant to this Act was committed.

SEC. 13. Section 290.024 is added to the Penal Code, to read:

290.024. For purposes of this chapter, the following terms apply:

(a) "Internet service provider" means a business, organization, or other entity providing a computer and communications facility directly to consumers through which a person may obtain access to the Internet. An Internet service provider does not include a business, organization, or other entity that provides only telecommunications services, cable services, or video services, or any system operated or services offered by a library or educational institution.

(b) "Internet identifier" means an electronic mail address, user name, screen name, or similar identifier used for the purpose of Internet forum discussions, Internet chat room discussions, instant messaging, social networking, or similar Internet communication.

SEC. 14. Section 13519.14 of the Penal Code is amended to read:

13519.14. (a) The commission shall implement by January 1, 2007, a course or courses of instruction for the training of law enforcement officers in California in the handling of human trafficking complaints and also shall develop guidelines for law enforcement response to human trafficking. The course or courses of instruction and the guidelines shall stress the dynamics and manifestations of human trafficking, identifying and communicating with victims, providing documentation that satisfy the ~~law enforcement agency~~ *Law Enforcement Agency (LEA)* endorsement ~~(LEA)~~ required by federal law, collaboration with federal law enforcement officials, therapeutically appropriate investigative techniques, the availability of civil and immigration remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include human trafficking experts with experience in the delivery of direct services to victims of human trafficking. Completion of the course may be satisfied by telecommunication, video training tape, or other instruction.

(b) As used in this section, "law enforcement officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the *Department of the* California Highway Patrol, as defined by subdivision (a) of Section 830.2.

(c) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of human trafficking.

(d) The commission, in consultation with these groups and individuals, shall review existing training programs to

determine in what ways human trafficking training may be included as a part of ongoing programs.

(e) ~~Participation in the course or courses specified in this section by peace officers or the agencies employing them is voluntary~~ *Every law enforcement officer who is assigned field or investigative duties shall complete a minimum of two hours of training in a course or courses of instruction pertaining to the handling of human trafficking complaints as described in subdivision (a) by July 1, 2014, or within six months of being assigned to that position, whichever is later.*

SEC. 15. Amendments.

This act may be amended by a statute in furtherance of its objectives passed in each house of the Legislature by rollcall vote entered in the journal, a majority of the membership of each house concurring.

SEC. 16. Severability.

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.

PROPOSITION 36

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THREE STRIKES REFORM ACT OF 2012

SECTION 1. Findings and Declarations:

The People enact the Three Strikes Reform Act of 2012 to restore the original intent of California's Three Strikes law—imposing life sentences for dangerous criminals like rapists, murderers, and child molesters.

This act will:

(1) Require that murderers, rapists, and child molesters serve their full sentences—they will receive life sentences, even if they are convicted of a new minor third strike crime.

(2) Restore the Three Strikes law to the public's original understanding by requiring life sentences only when a defendant's current conviction is for a violent or serious crime.

(3) Maintain that repeat offenders convicted of non-violent, non-serious crimes like shoplifting and simple drug possession will receive twice the normal sentence instead of a life sentence.

(4) Save hundreds of millions of taxpayer dollars every year for at least 10 years. The state will no longer pay for housing or long-term health care for elderly, low-risk, non-violent inmates serving life sentences for minor crimes.

(5) Prevent the early release of dangerous criminals who are currently being released early because jails and prisons are overcrowded with low-risk, non-violent inmates serving life sentences for petty crimes.

SEC. 2. Section 667 of the Penal Code is amended to read:

667. (a) (1) In compliance with subdivision (b) of Section 1385, any person convicted of a serious felony who previously has been convicted of a serious felony in this state or of any offense committed in another jurisdiction which includes all of the elements of any serious felony, shall receive, in addition to the sentence imposed by the court for the present offense, a five-year enhancement for each such prior conviction on charges brought and tried separately. The terms of the present offense and each enhancement shall run consecutively.

(2) This subdivision shall not be applied when the punishment imposed under other provisions of law would result in a longer term of imprisonment. There is no requirement of prior incarceration or commitment for this subdivision to apply.

(3) The Legislature may increase the length of the enhancement of sentence provided in this subdivision by a statute passed by majority vote of each house thereof.

(4) As used in this subdivision, "serious felony" means a serious felony listed in subdivision (c) of Section 1192.7.

(5) This subdivision shall not apply to a person convicted of selling, furnishing, administering, or giving, or offering to sell, furnish, administer, or give to a minor any methamphetamine-related drug or any precursors of methamphetamine unless the prior conviction was for a serious felony described in subparagraph (24) of subdivision (c) of Section 1192.7.

(b) It is the intent of the Legislature in enacting subdivisions (b) to (i), inclusive, to ensure longer prison sentences and greater punishment for those who commit a felony and have been previously convicted of *one or more* serious and/or violent felony offenses.

(c) Notwithstanding any other law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior *serious and/or violent* felony convictions as defined in subdivision (d), the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior *serious and/or violent* felony conviction and the current felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison. Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one felony count not committed on the same occasion, and not arising

from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to subdivision (e).

(7) If there is a current conviction for more than one serious or violent felony as described in paragraph (6), the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

(8) Any sentence imposed pursuant to subdivision (e) will be imposed consecutive to any other sentence which the defendant is already serving, unless otherwise provided by law.

(d) Notwithstanding any other law and for the purposes of subdivisions (b) to (i), inclusive, a prior conviction of a *serious and/or violent* felony shall be defined as:

(1) Any offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state. The determination of whether a prior conviction is a prior felony conviction for purposes of subdivisions (b) to (i), inclusive, shall be made upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. None of the following dispositions shall affect the determination that a prior conviction is a prior felony for purposes of subdivisions (b) to (i), inclusive:

(A) The suspension of imposition of judgment or sentence.

(B) The stay of execution of sentence.

(C) The commitment to the State Department of Health Services as a mentally disordered sex offender following a conviction of a felony.

(D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from the state prison.

(2) A *prior* conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in the state prison~~. A~~ *shall constitute a* prior conviction of a particular *serious and/or violent* felony ~~shall include a~~ *if the prior* conviction in ~~another~~ *the other* jurisdiction *is* for an offense that includes all of the elements of ~~the~~ *a* particular *violent* felony as defined in subdivision (c) of Section 667.5 or *serious felony as defined in* subdivision (c) of Section 1192.7.

(3) A prior juvenile adjudication shall constitute a prior *serious and/or violent* felony conviction for purposes of sentence enhancement if:

(A) The juvenile was 16 years of age or older at the time he or she committed the prior offense.

(B) The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code or described in paragraph (1) or (2) as a *serious and/or violent* felony.

(C) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law.

(D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(e) For purposes of subdivisions (b) to (i), inclusive, and in addition to any other enhancement or punishment provisions which may apply, the following shall apply where a defendant has ~~a~~ *one or more* prior *serious and/or violent* felony ~~conviction~~ *convictions*:

(1) If a defendant has one prior *serious and/or violent* felony conviction *as defined in subdivision (d)* that has been pled and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current felony conviction.

(2) (A) ~~If~~ *Except as provided in subparagraph (C), if* a defendant has two or more prior *serious and/or violent* felony convictions as defined in subdivision (d) that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the ~~greater~~ *greatest* of:

(i) Three times the term otherwise provided as punishment for each current felony conviction subsequent to the two or more prior *serious and/or violent* felony convictions.

(ii) Imprisonment in the state prison for 25 years.

(iii) The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046.

(B) The indeterminate term described in subparagraph (A) shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to any indeterminate term described in subparagraph (A) shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(C) If a defendant has two or more prior serious and/or violent felony convictions as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7 that have been pled and proved, and the current offense is not a serious or violent felony as defined in subdivision (d), the defendant shall be sentenced pursuant to paragraph (1) of subdivision (e) unless the prosecution pleads and proves any of the following:

(i) The current offense is a controlled substance charge, in which an allegation under Section 11370.4 or 11379.8 of the Health and Safety Code was admitted or found true.

(ii) The current offense is a felony sex offense, defined in subdivision (d) of Section 261.5 or Section 262, or any felony offense that results in mandatory registration as a sex offender pursuant to subdivision (c) of Section 290 except for violations of Sections 266 and 285, paragraph (1) of subdivision (b) and subdivision (e) of Section 286, paragraph (1) of subdivision (b) and subdivision (e) of Section 288a, Section 311.11, and Section 314.

(iii) During the commission of the current offense, the defendant used a firearm, was armed with a firearm or deadly weapon, or intended to cause great bodily injury to another person.

(iv) The defendant suffered a prior serious and/or violent felony conviction, as defined in subdivision (d) of this section, for any of the following felonies:

(I) A "sexually violent offense" as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code.

(II) Oral copulation with a child who is under 14 years of age, and who is more than 10 years younger than he or she as defined by Section 288a, sodomy with another person who is under 14 years of age and more than 10 years younger than he or she as defined by Section 286, or sexual penetration with another person who is under 14 years of age, and who is more than 10 years younger than he or she, as defined by Section 289.

(III) A lewd or lascivious act involving a child under 14 years of age, in violation of Section 288.

(IV) Any homicide offense, including any attempted homicide offense, defined in Sections 187 to 191.5, inclusive.

(V) Solicitation to commit murder as defined in Section 653f.

(VI) Assault with a machine gun on a peace officer or firefighter, as defined in paragraph (3) of subdivision (d) of Section 245.

(VII) Possession of a weapon of mass destruction, as defined in paragraph (1) of subdivision (a) of Section 11418.

(VIII) Any serious and/or violent felony offense punishable in California by life imprisonment or death.

(f) (1) Notwithstanding any other law, subdivisions (b) to (i), inclusive, shall be applied in every case in which a defendant has ~~a~~ *one or more* prior *serious and/or violent* felony ~~conviction~~ *convictions* as defined in subdivision (d). The prosecuting attorney shall plead and prove each prior *serious and/or violent* felony conviction except as provided in paragraph (2).

(2) The prosecuting attorney may move to dismiss or strike a prior *serious and/or violent* felony conviction allegation in the furtherance of justice pursuant to Section 1385, or if there is insufficient evidence to prove the prior *serious and/or violent felony* conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior *serious and/or violent* felony conviction, the court may dismiss or strike the allegation. *Nothing in this section shall be read to alter a court's authority under Section 1385.*

(g) Prior *serious and/or violent* felony convictions shall not be used in plea bargaining as defined in subdivision (b) of Section 1192.7. The prosecution shall plead and prove all known prior felony *serious and/or violent* convictions and shall not enter into any agreement to strike or seek the dismissal of any prior *serious and/or violent* felony conviction allegation except as provided in paragraph (2) of subdivision (f).

(h) All references to existing statutes in subdivisions (c) to (g), inclusive, are to statutes as they existed on ~~June 30, 1993~~ *November 7, 2012.*

(i) If any provision of subdivisions (b) to (h), inclusive, or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of those subdivisions which can be given effect without the invalid provision or application, and to this end the provisions of those subdivisions are severable.

(j) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 3. Section 667.1 of the Penal Code is amended to read:

667.1. Notwithstanding subdivision (h) of Section 667, for all offenses committed on or after ~~the effective date of this act~~ *November 7, 2012*, all references to existing statutes in subdivisions (c) to (g), inclusive, of Section 667, are to those statutes as they existed on ~~the effective date of this act, including amendments made to those statutes by the act enacted during the 2005–06 Regular Session that amended this section~~ *November 7, 2012.*

SEC. 4. Section 1170.12 of the Penal Code is amended to read:

1170.12. ~~(a)~~ *Aggregate and consecutive terms for multiple convictions; Prior conviction as prior felony; Commitment and other enhancements or punishment.*

(a) Notwithstanding any other provision of law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior *serious and/or violent* felony convictions, as defined in subdivision (b), the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior *serious and/or violent* felony conviction and the current felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison. Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one felony count not committed on the same occasion, and not arising from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to this section.

(7) If there is a current conviction for more than one serious or violent felony as described in ~~paragraph (6) of this~~ subdivision *(b)*, the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

~~(8) Any sentence imposed pursuant to this section will be imposed consecutive to any other sentence which the defendant is already serving, unless otherwise provided by law.~~

(b) Notwithstanding any other provision of law and for the purposes of this section, a prior *serious and/or violent* conviction of a felony shall be defined as:

(1) Any offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state. The determination of whether a prior conviction is a prior *serious and/or violent* felony conviction for purposes of this section shall be made

upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. None of the following dispositions shall affect the determination that a prior *serious and/or violent* conviction is a ~~prior~~ *serious and/or violent* felony for purposes of this section:

(A) The suspension of imposition of judgment or sentence.

(B) The stay of execution of sentence.

(C) The commitment to the State Department of Health Services as a mentally disordered sex offender following a conviction of a felony.

(D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from the state prison.

(2) A *prior* conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in the state prison. ~~A~~ *shall constitute a* prior conviction of a particular *serious and/or violent* felony ~~shall include a~~ *if the prior* conviction in ~~another~~ *the other* jurisdiction *is* for an offense that includes all of the elements of the particular *violent* felony as defined in subdivision (c) of Section 667.5 or *serious felony as defined in* subdivision (c) of Section 1192.7.

(3) A prior juvenile adjudication shall constitute a prior *serious and/or violent* felony conviction for *the* purposes of sentence enhancement if:

(A) The juvenile was sixteen years of age or older at the time he or she committed the prior offense, and

(B) The prior offense is

(i) listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, or

(ii) listed in this subdivision as a *serious and/or violent* felony, and

(C) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law, and

(D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(c) For purposes of this section, and in addition to any other enhancements or punishment provisions which may apply, the following shall apply where a defendant has ~~a~~ *one or more* prior *serious and/or violent* felony ~~conviction~~ *convictions*:

(1) If a defendant has one prior *serious and/or violent* felony conviction *as defined in subdivision (b)* that has been pled and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current felony conviction.

(2) (A) ~~If~~ *Except as provided in subparagraph (C), if* a defendant has two or more prior *serious and/or violent* felony convictions, as defined in ~~paragraph (1) of~~ subdivision (b), that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the ~~greater~~ *greatest* of*:*

(i) three times the term otherwise provided as punishment for each current felony conviction subsequent to the two or more prior *serious and/or violent* felony convictions, or

(ii) twenty-five years or

(iii) the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046.

(B) The indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to any indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(C) If a defendant has two or more prior serious and/or violent felony convictions as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7 that have been pled and proved, and the current offense is not a felony described in paragraph (1) of subdivision (b) of this section, the defendant shall be sentenced pursuant to paragraph (1) of subdivision (c) of this section, unless the prosecution pleads and proves any of the following:

(i) The current offense is a controlled substance charge, in which an allegation under Section 11370.4 or 11379.8 of the Health and Safety Code was admitted or found true.

(ii) The current offense is a felony sex offense, defined in subdivision (d) of Section 261.5 or Section 262, or any felony offense that results in mandatory registration as a sex offender pursuant to subdivision (c) of Section 290 except for violations of Sections 266 and 285, paragraph (1) of subdivision (b) and subdivision (e) of Section 286, paragraph (1) of subdivision (b) and subdivision (e) of Section 288a, Section 314, and Section 311.11.

(iii) During the commission of the current offense, the defendant used a firearm, was armed with a firearm or deadly weapon, or intended to cause great bodily injury to another person.

(iv) The defendant suffered a prior conviction, as defined in subdivision (b) of this section, for any of the following serious and/or violent felonies:

(I) A "sexually violent offense" as defined by subdivision (b) of Section 6600 of the Welfare and Institutions Code.

(II) Oral copulation with a child who is under 14 years of age, and who is more than 10 years younger than he or she as defined by Section 288a, sodomy with another person who is under 14 years of age and more than 10 years younger than he or she as defined by Section 286 or sexual penetration with another person who is under 14 years of age, and who is more than 10 years younger than he or she, as defined by Section 289.

(III) A lewd or lascivious act involving a child under 14 years of age, in violation of Section 288.

(IV) Any homicide offense, including any attempted homicide offense, defined in Sections 187 to 191.5, inclusive.

(V) Solicitation to commit murder as defined in Section 653f.

(VI) Assault with a machine gun on a peace officer or firefighter, as defined in paragraph (3) of subdivision (d) of Section 245.

(VII) Possession of a weapon of mass destruction, as defined

in paragraph (1) of subdivision (a) of Section 11418.

(VIII) Any serious and/or violent felony offense punishable in California by life imprisonment or death.

(d) (1) Notwithstanding any other provision of law, this section shall be applied in every case in which a defendant has ~~a~~ *one or more* prior *serious and/or violent* felony ~~conviction~~ *convictions* as defined in this section. The prosecuting attorney shall plead and prove each prior *serious and/or violent* felony conviction except as provided in paragraph (2).

(2) The prosecuting attorney may move to dismiss or strike a prior *serious and/or violent* felony conviction allegation in the furtherance of justice pursuant to Section 1385, or if there is insufficient evidence to prove the prior *serious and/or violent* conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior *serious and/or violent* felony conviction, the court may dismiss or strike the allegation. *Nothing in this section shall be read to alter a court's authority under Section 1385.*

(e) Prior *serious and/or violent* felony convictions shall not be used in plea bargaining, as defined in subdivision (b) of Section 1192.7. The prosecution shall plead and prove all known prior *serious and/or violent* felony convictions and shall not enter into any agreement to strike or seek the dismissal of any prior *serious and/or violent* felony conviction allegation except as provided in paragraph (2) of subdivision (d).

(f) If any provision of subdivisions (a) to (e), inclusive, or of Section 1170.126, or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of those subdivisions which can be given effect without the invalid provision or application, and to this end the provisions of those subdivisions are severable.

(g) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 5. Section 1170.125 of the Penal Code is amended to read:

1170.125. Notwithstanding Section 2 of Proposition 184, as adopted at the November 8, 1994, ~~general election~~ *General Election*, for all offenses committed on or after ~~the effective date of this act~~ *November 7, 2012*, all references to existing statutes in ~~Section~~ *Sections* 1170.12 *and 1170.126* are to those ~~statutes~~ *sections* as they existed on ~~the effective date of this act, including amendments made to those statutes by the act enacted during the 2005–06 Regular Session that amended this section~~ *November 7, 2012.*

SEC. 6. Section 1170.126 is added to the Penal Code, to read:

1170.126. (a) The resentencing provisions under this section and related statutes are intended to apply exclusively to persons presently serving an indeterminate term of imprisonment pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12, whose sentence under this act would not have been an indeterminate life sentence.

(b) Any person serving an indeterminate term of life imprisonment imposed pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12 upon conviction, whether by trial or plea, of a felony or felonies that are not defined as serious and/or violent felonies by subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7, may file a petition for a recall of sentence, within two years after the effective date of the act that added this section or at a later date upon a showing of good cause, before the trial court that entered the judgment of conviction in his or her case, to request resentencing in accordance with the provisions of subdivision (e) of Section 667, and subdivision (c) of Section 1170.12, as those statutes have been amended by the act that added this section.

(c) No person who is presently serving a term of imprisonment for a "second strike" conviction imposed pursuant to paragraph (1) of subdivision (e) of Section 667 or paragraph (1) of subdivision (c) of Section 1170.12, shall be eligible for resentencing under the provisions of this section.

(d) The petition for a recall of sentence described in subdivision (b) shall specify all of the currently charged felonies, which resulted in the sentence under paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12, or both, and shall also specify all of the prior convictions alleged and proved under subdivision (d) of Section 667 and subdivision (b) of Section 1170.12.

(e) An inmate is eligible for resentencing if:

(1) The inmate is serving an indeterminate term of life imprisonment imposed pursuant to paragraph (2) of subdivision (e) of Section 667 or subdivision (c) of Section 1170.12 for a conviction of a felony or felonies that are not defined as serious and/or violent felonies by subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(2) The inmate's current sentence was not imposed for any of the offenses appearing in clauses (i) to (iii), inclusive, of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or clauses (i) to (iii), inclusive, of subparagraph (C) of paragraph (2) of subdivision (c) of Section 1170.12.

(3) The inmate has no prior convictions for any of the offenses appearing in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or clause (iv) of subparagraph (C) of paragraph (2) of subdivision (c) of Section 1170.12.

(f) Upon receiving a petition for recall of sentence under this section, the court shall determine whether the petitioner satisfies the criteria in subdivision (e). If the petitioner satisfies the criteria in subdivision (e), the petitioner shall be resentenced pursuant to paragraph (1) of subdivision (e) of Section 667 and paragraph (1) of subdivision (c) of Section 1170.12 unless the court, in its discretion, determines that resentencing the petitioner would pose an unreasonable risk of danger to public safety.

(g) In exercising its discretion in subdivision (f), the court may consider:

(1) The petitioner's criminal conviction history, including the type of crimes committed, the extent of injury to victims, the length of prior prison commitments, and the remoteness of the crimes;

(2) The petitioner's disciplinary record and record of rehabilitation while incarcerated; and

(3) Any other evidence the court, within its discretion, determines to be relevant in deciding whether a new sentence would result in an unreasonable risk of danger to public safety.

(h) Under no circumstances may resentencing under this act result in the imposition of a term longer than the original sentence.

(i) Notwithstanding subdivision (b) of Section 977, a defendant petitioning for resentencing may waive his or her appearance in court for the resentencing, provided that the accusatory pleading is not amended at the resentencing, and that no new trial or retrial of the individual will occur. The waiver shall be in writing and signed by the defendant.

(j) If the court that originally sentenced the defendant is not available to resentence the defendant, the presiding judge shall designate another judge to rule on the defendant's petition.

(k) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the defendant.

(l) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this act.

(m) A resentencing hearing ordered under this act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).

SEC. 7. Liberal Construction:

This act is an exercise of the public power of the people of the State of California for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to effectuate those purposes.

SEC. 8. Severability:

If any provision of this act, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this act, which can be given effect without the invalid provision or application in order to effectuate the purposes of this act. To this end, the provisions of this act are severable.

SEC. 9. Conflicting Measures:

If this measure is approved by the voters, but superseded by any other conflicting ballot measure approved by more voters at the same election, and the conflicting ballot measure is later held invalid, it is the intent of the voters that this act shall be given the full force of law.

SEC. 10. Effective Date:

This act shall become effective on the first day after enactment by the voters.

SEC. 11. Amendment:

Except as otherwise provided in the text of the statutes, the provisions of this act shall not be altered or amended except by one of the following:

(a) By statute passed in each house of the Legislature, by rollcall entered in the journal, with two-thirds of the membership and the Governor concurring; or

(b) By statute passed in each house of the Legislature, by rollcall vote entered in the journal, with a majority of the membership concurring, to be placed on the next general ballot and approved by a majority of the electors; or

(c) By statute that becomes effective when approved by a majority of the electors.

PROPOSITION 37

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure amends and adds sections to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The people of the State of California do enact as follows:

THE CALIFORNIA RIGHT TO KNOW GENETICALLY ENGINEERED FOOD ACT

SECTION 1. FINDINGS AND DECLARATIONS

(a) California consumers have the right to know whether the foods they purchase were produced using genetic engineering. Genetic engineering of plants and animals often causes unintended consequences. Manipulating genes and inserting them into organisms is an imprecise process. The results are not always predictable or controllable, and they can lead to adverse health or environmental consequences.

(b) Government scientists have stated that the artificial insertion of DNA into plants, a technique unique to genetic engineering, can cause a variety of significant problems with plant foods. Such genetic engineering can increase the levels of known toxicants in foods and introduce new toxicants and health concerns.

(c) Mandatory identification of foods produced through genetic engineering can provide a critical method for tracking the potential health effects of eating genetically engineered foods.

(d) No federal or California law requires that food producers identify whether foods were produced using genetic engineering. At the same time, the U.S. Food and Drug Administration does not require safety studies of such foods. Unless these foods contain a known allergen, the FDA does not even require developers of genetically engineered crops to consult with the agency.

(e) Polls consistently show that more than 90 percent of the public want to know if their food was produced using genetic engineering.

(f) Fifty countries—including the European Union member states, Japan and other key U.S. trading partners—have laws mandating disclosure of genetically engineered foods. No international agreements prohibit the mandatory identification of foods produced through genetic engineering.

(g) Without disclosure, consumers of genetically engineered food can unknowingly violate their own dietary and religious restrictions.

(h) The cultivation of genetically engineered crops can also cause serious impacts to the environment. For example, most genetically engineered crops are designed to withstand weed-

killing pesticides known as herbicides. As a result, hundreds of millions of pounds of additional herbicides have been used on U.S. farms. Because of the massive use of such products, herbicide-resistant weeds have flourished—a problem that has resulted, in turn, in the use of increasingly toxic herbicides. These toxic herbicides damage our agricultural areas, impair our drinking water, and pose health risks to farm workers and consumers. California consumers should have the choice to avoid purchasing foods production of which can lead to such environmental harm.

(i) Organic farming is a significant and increasingly important part of California agriculture. California has more organic cropland than any other state and has almost one out of every four certified organic operations in the nation. California's organic agriculture is growing faster than 20 percent a year.

(j) Organic farmers are prohibited from using genetically engineered seeds. Nonetheless, these farmers' crops are regularly threatened with accidental contamination from neighboring lands where genetically engineered crops abound. This risk of contamination can erode public confidence in California's organic products, significantly undermining this industry. Californians should have the choice to avoid purchasing foods whose production could harm the state's organic farmers and its organic foods industry.

(k) The labeling, advertising and marketing of genetically engineered foods using terms such as "natural," "naturally made," "naturally grown," or "all natural" is misleading to California consumers.

SEC. 2. STATEMENT OF PURPOSE

The purpose of this measure is to create and enforce the fundamental right of the people of California to be fully informed about whether the food they purchase and eat is genetically engineered and not misbranded as natural so that they can choose for themselves whether to purchase and eat such foods. It shall be liberally construed to fulfill this purpose.

SEC. 3. Article 6.6 (commencing with Section 110808) is added to Chapter 5 of Part 5 of Division 104 of the Health and Safety Code, to read:

ARTICLE 6.6.

THE CALIFORNIA RIGHT TO KNOW GENETICALLY ENGINEERED FOOD ACT

110808. Definitions

The following definitions shall apply only for the purposes of this article:

(a) Cultivated commercially. "Cultivated commercially" means grown or raised by a person in the course of his business or trade and sold within the United States.

(b) Enzyme. "Enzyme" means a protein that catalyzes chemical reactions of other substances without itself being destroyed or altered upon completion of the reactions.

(c) Genetically engineered. (1) "Genetically engineered" means any food that is produced from an organism or organisms in which the genetic material has been changed through the application of:

(A) In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) techniques and the direct injection of nucleic acid into cells or organelles, or

(B) Fusion of cells, including protoplast fusion, or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells/protoplasts do not fall within the same taxonomic family, in a way that does not occur by natural multiplication or natural recombination.

(2) For purposes of this subdivision:

(A) "Organism" means any biological entity capable of replication, reproduction, or transferring genetic material.

(B) "In vitro nucleic acid techniques" include, but are not limited to, recombinant DNA or RNA techniques that use vector systems and techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organisms such as micro-injection, macro-injection, chemoporation, electroporation, micro-encapsulation, and liposome fusion.

(d) Processed food. "Processed food" means any food other than a raw agricultural commodity, and includes any food produced from a raw agricultural commodity that has been subject to processing such as canning, smoking, pressing, cooking, freezing, dehydration, fermentation, or milling.

(e) Processing aid. "Processing aid" means:

(1) A substance that is added to a food during the processing of such food, but is removed in some manner from the food before it is packaged in its finished form;

(2) A substance that is added to a food during processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; or

(3) A substance that is added to a food for its technical or functional effect in the processing, but is present in the finished food at insignificant levels and does not have any technical or functional effect in that finished food.

(f) Food Facility. "Food facility" shall have the meaning set forth in Section 113789.

110809. Disclosure With Respect to Genetic Engineering of Food

(a) Commencing July 1, 2014, any food offered for retail sale in California is misbranded if it is or may have been entirely or partially produced with genetic engineering and that fact is not disclosed:

(1) In the case of a raw agricultural commodity on the package offered for retail sale, with the clear and conspicuous words "Genetically Engineered" on the front of the package of such commodity or, in the case of any such commodity that is not separately packaged or labeled, on a label appearing on the retail store shelf or bin in which such commodity is displayed for sale;

(2) In the case of any processed food, in clear and conspicuous language on the front or back of the package of such food, with the words "Partially Produced with Genetic Engineering" or "May be Partially Produced with Genetic Engineering."

(b) Subdivision (a) of this section and subdivision (e) of Section 110809.2 shall not be construed to require either the listing or identification of any ingredient or ingredients that were genetically engineered or that the term "genetically

engineered" be placed immediately preceding any common name or primary product descriptor of a food.

110809.1. Misbranding of Genetically Engineered Foods as "Natural"

In addition to any disclosure required by Section 110809, if a food meets any of the definitions in subdivision (c) or (d) of Section 110808, and is not otherwise exempted from labeling under Section 110809.2, the food may not in California, on its label, accompanying signage in a retail establishment, or in any advertising or promotional materials, state or imply that the food is "natural," "naturally made," "naturally grown," "all natural," or any words of similar import that would have any tendency to mislead any consumer.

110809.2. Labeling of Genetically Engineered Food—Exemptions

The requirements of Section 110809 shall not apply to any of the following:

(a) Food consisting entirely of, or derived entirely from, an animal that has not itself been genetically engineered, regardless of whether such animal has been fed or injected with any genetically engineered food or any drug that has been produced through means of genetic engineering.

(b) A raw agricultural commodity or food derived therefrom that has been grown, raised, or produced without the knowing and intentional use of genetically engineered seed or food. Food will be deemed to be described in the preceding sentence only if the person otherwise responsible for complying with the requirements of subdivision (a) of Section 110809 with respect to a raw agricultural commodity or food obtains, from whoever sold the commodity or food to that person, a sworn statement that such commodity or food: (1) has not been knowingly or intentionally genetically engineered; and (2) has been segregated from, and has not been knowingly or intentionally commingled with, food that may have been genetically engineered at any time. In providing such a sworn statement, any person may rely on a sworn statement from his or her own supplier that contains the affirmation set forth in the preceding sentence.

(c) Any processed food that would be subject to Section 110809 solely because it includes one or more genetically engineered processing aids or enzymes.

(d) Any alcoholic beverage that is subject to the Alcoholic Beverage Control Act, set forth in Division 9 (commencing with Section 23000) of the Business and Professions Code.

(e) Until July 1, 2019, any processed food that would be subject to Section 110809 solely because it includes one or more genetically engineered ingredients, provided that: (1) no single such ingredient accounts for more than one-half of one percent of the total weight of such processed food; and (2) the processed food does not contain more than 10 such ingredients.

(f) Food that an independent organization has determined has not been knowingly and intentionally produced from or commingled with genetically engineered seed or genetically engineered food, provided that such determination has been made pursuant to a sampling and testing procedure approved in regulations adopted by the department. No sampling procedure shall be approved by the department unless sampling is done according to a statistically valid sampling plan consistent with principles recommended by internationally recognized sources such as the International Standards Organization (ISO) and the Grain and Feed Trade Association (GAFTA). No testing procedure shall be approved by the department unless: (1) it is consistent with the most recent "Guidelines on Performance Criteria and Validation of Methods for Detection, Identification and Quantification of Specific DNA Sequences and Specific Proteins in Foods," (CAC/GL 74 (2010)) published by the Codex Alimentarius Commission; and (2) it does not rely on testing of processed foods in which no DNA is detectable.

(g) Food that has been lawfully certified to be labeled, marketed, and offered for sale as "organic" pursuant to the federal Organic Food Products Act of 1990 and the regulations promulgated pursuant thereto by the United States Department of Agriculture.

(h) Food that is not packaged for retail sale and that either: (1) is a processed food prepared and intended for immediate human consumption or (2) is served, sold, or otherwise provided in any restaurant or other food facility that is primarily engaged in the sale of food prepared and intended for immediate human consumption.

(i) Medical food.

110809.3. Adoption of Regulations

The department may adopt any regulations that it determines are necessary for the enforcement and interpretation of this article, provided that the department shall not be authorized to create any exemptions beyond those specified in Section 110809.2.

110809.4. Enforcement

In addition to any action under Article 4 (commencing with Section 111900) of Chapter 8, any violation of Section 110809 or 110890.1 shall be deemed a violation of paragraph (5) of subdivision (a) of Section 1770 of the Civil Code and may be prosecuted under Title 1.5 (commencing with section 1750) of Part 4 of Division 3 of the Civil Code, save that the consumer bringing the action need not establish any specific damage from, or prove any reliance on, the alleged violation. The failure to make any disclosure required by Section 110809, or the making of a statement prohibited by section 110809.1, shall each be deemed to cause damage in at least the amount of the actual or offered retail price of each package or product alleged to be in violation.

SEC. 4. ENFORCEMENT

Section 111910 of the Health and Safety Code is amended to read:

111910. (a) Notwithstanding the provisions of Section 111900 or any other provision of law, any person may bring an action in superior court pursuant to this section and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of *Article 6.6 (commencing with Section 110808), or* Article 7 (commencing with Section 110810) of Chapter 5. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the person shall not be required to allege facts

necessary to show, or tending to show, lack of adequate remedy at law, or to show, or tending to show, irreparable damage or loss, or to show, or tending to show, unique or special individual injury or damages.

(b) In addition to the injunctive relief provided in subdivision (a), the court may award to that person, organization, or entity reasonable attorney's fees *and all reasonable costs incurred in investigating and prosecuting the action* as determined by the court.

(c) This section shall not be construed to limit or alter the powers of the department and its authorized agents to bring an action to enforce this chapter pursuant to Section 111900 or any other provision of law.

SEC. 5. MISBRANDING

Section 110663 is added to the Health and Safety Code, to read:

110663. Any food is misbranded if its labeling does not conform to the requirements of Section 110809 or 110809.1.

SEC. 6. SEVERABILITY

If any provision of this initiative or the application thereof is for any reason held to be invalid or unconstitutional, that shall not affect other provisions or applications of the initiative that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this initiative are severable.

SEC. 7. CONSTRUCTION WITH OTHER LAWS

This initiative shall be construed to supplement, not to supersede, the requirements of any federal or California statute or regulation that provides for less stringent or less complete labeling of any raw agricultural commodity or processed food subject to the provisions of this initiative.

SEC. 8. EFFECTIVE DATE

This initiative shall become effective upon enactment pursuant to subdivision (a) of Section 10 of Article II of the California Constitution.

SEC. 9. CONFLICTING MEASURES

In the event that another measure or measures appearing on the same statewide ballot impose additional requirements relating to the production, sale and/or labeling of genetically engineered food, then the provisions of the other measure or measures, if approved by the voters, shall be harmonized with the provisions of this act, provided that the provisions of the other measure or measures do not prevent or excuse compliance with the requirements of this act.

In the event that the provisions of the other measure or measures prevent or excuse compliance with the provisions of this act, and this act receives a greater number of affirmative votes, then the provisions of this act shall prevail in their entirety, and the other measure or measures shall be null and void.

SEC. 10. AMENDMENTS

This initiative may be amended by the Legislature, but only to further its intent and purpose, by a statute passed by a two-thirds vote in each house.

PROPOSITION 38

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Education Code, the Penal Code, and the Revenue and Taxation Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

OUR CHILDREN, OUR FUTURE: LOCAL SCHOOLS AND EARLY EDUCATION INVESTMENT AND BOND DEBT REDUCTION ACT

SECTION 1. Title.

This measure shall be known and may be cited as "Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act."

SEC. 2. Findings and Declaration of Purpose.

(a) California is shortchanging the future of our children and our state. Today, our state ranks 46th nationally in what we invest to educate each student. California also ranks dead last, 50th out of 50 states, with the largest class sizes in the nation.

(b) Recent budget cuts are putting our schools even farther behind. Over the last three years, more than $20 billion has been cut from California schools; essential programs and services that all children need to be successful have been eliminated or cut; and over 40,000 educators have been laid off.

(c) We are also failing with our early childhood development programs, which many studies confirm are one of the best educational investments we can make. Our underfunded public preschool programs serve only 40 percent of eligible three- and four-year olds. Only 5 percent of very low income infants and toddlers, who need the support most, have access to early childhood programs.

(d) We can and must do better. Children are our future. Investing in our schools and early childhood programs to prepare children to succeed is the best thing we can do for our children and the future of our economy and our state. Without a quality education, our children will not be able to compete in a global economy. Without a skilled workforce, our state will not be able to compete for jobs. We owe it to our children and to ourselves to improve our children's education.

(e) It is time to make a real difference: no more half-measures but real, transformative investment in the schools on which the future of our state and our families depends. This act will enable schools to provide a well-rounded education that supports college and career readiness for every student, including a high-quality curriculum of the arts, music, physical education, science, technology, engineering, math, and vocational and technical education courses; smaller class sizes; school libraries, school nurses, and counselors.

(f) This act requires that decisions about how best to use new funds to improve our schools must be made not in Sacramento, but locally, with respect for the voices of parents, teachers, other school staff, and community members. It requires local school

boards to work with parents, teachers, other school staff, and community members to decide what is most needed at each particular school.

(g) In order for all our schools to be transformed, so that all our children benefit, this act makes sure that new funding gets to every local school—including charter schools, county schools, and schools for children with special needs—and is allocated fairly and transparently. New funding will be allocated to every local school on a per-pupil basis, with funds required to be spent at local schools, not district headquarters.

(h) This measure holds local school boards accountable for how they spend new taxpayer money. They are required to explain how expenditures will improve educational outcomes and how they propose to determine whether the expenditures were successful. They will be required to report back on what results were achieved so that parents, teachers, and the community will know whether their money is being used wisely.

(i) This act limits what schools can spend from these new funds on administrative costs to no more than 1 percent and ensures schools may not use these new funds to increase salaries and benefits.

(j) This act will help prepare disadvantaged young children to succeed in school and in life by raising standards for early childhood education programs and by expanding the number of children who can attend.

(k) As Californians, we all should share in the cost of improving our schools and early education programs because we all share in the benefits that better schools and a well-educated workforce will bring to our economy and the quality of life in our state.

(*l*) Our schools and early childhood programs have suffered from years of being shortchanged. Rather than allow further cutbacks, we need to increase funding to provide every child an opportunity to succeed. If we all join together to send more resources to all our children and classrooms, and we all participate in ensuring good decisions are made about how to use these funds effectively, we can once again make California schools great and grow our economy.

(m) This measure raises the money needed to invest in our children through a sliding scale income tax increase which varies with taxpayers' ability to pay, with the highest income earners contributing the most.

(n) During the first four years of this initiative, as described below, 60 percent of the funds will go to K–12 schools, 10 percent will go to early education and 30 percent will go to reduce state debt and prevent further harmful budget cuts that could undermine these new educational investments. For the remaining eight years of the initiative, from 2017 on, 100 percent of the funds will go to increase K–12 and early education funding. To avoid wide fluctuations in revenue and ensure continued investment in needed school and early education facilities, any revenues that exceed the rate of growth of California per capita personal income will be used to help service and pay down existing state education bond debt, ensuring California's ability to issue new bonds, as needed, to build and modernize school and early education facilities.

(o) All the new money raised by this initiative will be put in a separate trust fund that can *only* be spent for local schools, for early childhood care and education, and to help service and retire school bond debt, according to the provisions of this act. The Legislature and the Governor will not be allowed to use this money for anything else, nor will they be able to change the per-pupil allocation system that ensures money flows fairly to every local school.

(p) This initiative contains tough, effective accountability provisions that require oversight, audits, and public disclosure. For the first time, we will have transparent schoolsite budgets and know exactly how our money is being spent in every school. Anyone who knowingly violates the allocation or distribution provisions of this act will be guilty of a felony.

(q) The initiative also builds in an extra layer of accountability by ending the tax after 12 years unless it is re-approved by the voters. That gives our schools enough time to show that the new funds have actually improved educational outcomes, while protecting taxpayers by eliminating the tax if voters decide they don't want to keep it.

(r) This initiative will be taking effect as California grapples with one of the worst economic downturns in its history. If the initiative were fully implemented immediately and nothing were done to help close our state's budget deficit, continuing extreme budget cuts could deprive our schools and children of the support they need to fully benefit from the educational investments provided by this act. Therefore, this initiative will be implemented in two phases. For the first four fiscal years, until the end of 2016–17, 30 percent of the funds—about $3 billion—will go to service and retire state school bond and other bond debt, freeing up a like amount to meet other budget needs critical to the overall well-being of children and the families and communities in which they live. Beginning in the 2017–18 fiscal year, the initiative will be fully implemented, and 100 percent of the funds will be new money, which cannot be used in place of Proposition 98 or any other current funding for K–12 education or early childhood programs. The result of this phased approach will be that, beginning immediately, 70 percent of the funds will be used to increase funding for schools and early education programs as required by this act, and after four years, all of the funds—100 percent—must be spent for that purpose to fulfill our obligation to our children and our future.

SEC. 3. Purpose and Intent.

The people of the State of California declare that this act is intended to do the following:

(a) To strengthen and support California's public schools, including charter schools, by increasing per-pupil funding to improve academic performance, graduation rates, and vocational, college, career, and life readiness.

(b) To strengthen and support the education of California's children by restoring funding, improving quality, and expanding access to early care and education programs for disadvantaged and at-risk children.

(c) To create more accountability, transparency, and community involvement in how public education funds are spent.

(d) To ensure that the revenues generated by this act will be used for K–12 educational activities at the schoolsite; to expand

and strengthen early care and education for disadvantaged children; and, to the limited extent and under the limited circumstances specifically permitted by this act, to strengthen the overall fiscal position of the state and encourage adequate future investment in educational facilities by reducing the burden of current state education bond debt.

(e) To ensure that the revenues generated by this act cannot be used to supplant existing state funding for K–12 education or early care and education.

(f) To ensure that the Legislature cannot borrow or divert the revenues generated by this act for any other purpose, nor dictate to local school communities how those funds shall be spent.

SEC. 4. Part 9.7 (commencing with Section 14800) is added to Division 1 of Title 1 of the Education Code, to read:

PART 9.7. OUR CHILDREN, OUR FUTURE: LOCAL SCHOOLS, EARLY EDUCATION INVESTMENT AND BOND DEBT REDUCTION ACT

14800. This part shall be known and may be cited as the Our Children, Our Future: Local Schools, Early Education Investment, and Bond Debt Reduction Act.

14800.5. For purposes of this part, and of Chapter 1.8 (commencing with Section 8160) of Part 6 of Division 1 of Title 1, the following definitions apply:

(a) "Local education agency" or "LEA" includes school districts, county offices of education, governing boards of independent public charter schools, and the governing bodies of direct instructional services provided by the state, including the California Schools for the Deaf and the California School for the Blind.

(b) "K–12 school" or "school" means any public school, including but without limitation any charter school, county school, or school for special needs children, that annually enrolls, and provides direct instructional services to, pupils in any or all of grades kindergarten through 12 and that is under the operational jurisdiction of any LEA. The term "kindergarten" in this part includes transitional kindergarten.

(c) "Early care and education" or "ECE" means preschool and other programs that are designed to care for and further the education of children from birth to kindergarten eligibility, including both programs providing early care and education to children and programs that strengthen the early care and education capacity of parents and caregivers so that they can better serve children.

(d) For the 2013–14 school year, a school's "enrollment" means the October enrollment figures reported for the 2012–13 school year, reduced or increased by the average percentage growth or decline in its October enrollment figures over the past three school years. For all subsequent years, a school's "enrollment" means the average monthly active enrollment for the prior school year calculated pursuant to Section 46305, or the October enrollment for the prior school year if the Section 46305 figure is not available, reduced or increased by the average percentage growth or decline in these enrollment figures over the past three school years. Each LEA's enrollment shall be the sum of enrollments at all schools under that LEA's jurisdiction. Statewide enrollment shall be the sum of all LEAs' enrollments.

(e) "Educational program" means expenditures for the following purposes at a K–12 schoolsite, approved at a public hearing by the governing board of the LEA with jurisdiction over the school, to improve the pupils' academic performance, graduation rates, and vocational, career, college, and life readiness:

(1) Instruction in the arts, physical education, science, technology, engineering, mathematics, history, civics, financial literacy, English and foreign languages, and technical, vocational, or career education.

(2) Smaller class sizes.

(3) More counselors, librarians, school nurses, and other support staff at the schoolsite.

(4) Extended learning time through longer school days or longer school years, summer school, preschool, after school enrichment programs, and tutoring.

(5) Additional social and academic support for English language learners, low-income pupils, and pupils with special needs.

(6) Alternative education models that build pupils' capacity for critical thinking and creativity.

(7) More communication and engagement with parents as true partners with schools in helping all children succeed.

(f) "CETF funds" means those revenues deposited in the California Education Trust Fund pursuant to Section 17041.1 of the Revenue and Taxation Code, together with all interest earned on those funds pending their initial allocation and all interest earned on any recaptured funds pending their reallocation.

(g) "Superintendent" means the Superintendent of Public Instruction.

14801. (a) The California Education Trust Fund (CETF) is hereby created in the State Treasury. CETF funds are held in trust and, notwithstanding Section 13340 of the Government Code, are continuously appropriated, without regard to fiscal years, for the exclusive purposes set forth in this act.

(b) CETF funds transferred and allocated to or from the California Education Trust Fund shall not constitute appropriations subject to limitation for purposes of Article XIII B of the California Constitution. CETF funds are held in trust for purposes of this Act only and shall not be considered General Fund revenues or proceeds of taxes, and thus shall not be included in the calculations required by Section 8 of Article XVI, nor subject to the provisions of Section 12 of Article IV or Section 20 of Article XVI, of the California Constitution.

(c) CETF funds shall be allocated and used exclusively as set forth in this act and shall not be used to pay administrative costs except as specifically authorized by the act. Notwithstanding any other provision of law, CETF funds shall not be transferred or loaned to the General Fund or to any other fund, person, or entity for any purpose or at any time except as expressly permitted in Section 14813.

(d) CETF funds allocated to LEAs and the Superintendent from the CETF shall supplement state, local, and federal funds committed for public K–12 schools and early care and education as of November 1, 2012, and shall not be used to supplant or replace the per capita state, local, or federal funding levels that were in place for these purposes as of that date,

corrected for changes in the cost of living and, with respect to federal funds, for any overall decline in federal funding availability. The amounts appropriated from funds other than the CETF for support of the K–12 education system and early care and education programs, whether constitutionally mandated or otherwise, shall not be reduced as a result of funds allocated pursuant to this act.

14802. (a) The Fiscal Oversight Board is hereby created to provide oversight and accountability in the distribution and use of all CETF funds. The members of the board are the Controller, the State Auditor, the Treasurer, the Attorney General, and the Director of Finance. The Fiscal Oversight Board shall be responsible for ensuring that CETF funds are distributed exactly as provided by this part and are used solely for the purposes set forth in this part.

(b) Notwithstanding any other provision of law, the actual costs incurred by the Fiscal Oversight Board, the Controller, and the Superintendent in administering the California Education Trust Fund shall be paid by CETF funds; provided, however, that such costs may not exceed three-tenths of 1 percent of all revenues collected in the fund over any three-year period, an average of one-tenth of 1 percent annually. Until the end of fiscal year 2016–17, 30 percent of the costs authorized by this section shall be deducted from the temporary support funds provided pursuant to Section 14802.1, 60 percent of the costs authorized by this section shall be deducted from the funds set aside for K–12 pursuant to Section 14803, and 10 percent of the costs authorized by this section shall be deducted from the funds set aside for ECE pursuant to Section 14803. Thereafter, 85 percent of the costs authorized by this section shall be deducted from the funds set aside for K–12, and 15 percent shall be deducted from the funds set aside for ECE, pursuant to Section 14803.

(c) The Fiscal Oversight Board may adopt such regulations, including emergency regulations, as are necessary to fulfill its obligations under this act.

14802.1. (a) Until the end of the 2016–17 fiscal year, the Controller shall allocate 30 percent of CETF funds as provided in this section and the remainder in accordance with Sections 14803, 14804, 14805, 14806, and 14807. Thereafter, all CETF funds shall be allocated pursuant to Sections 14803, 14804, 14805, 14806, and 14807.

(b) Until the end of the 2016–17 fiscal year, the term "CETF funds" as used in Section 14803 shall refer to the 70 percent of CETF funds that are allocated in accordance with Sections 14803, 14804, 14805, 14806, and 14808, and the term "temporary support funds" shall refer to the 30 percent of CETF funds that are allocated pursuant to this section.

(c) Until the end of the 2016–17 fiscal year, on a quarterly basis, the Controller shall draw warrants on and distribute the temporary support funds to the Education Debt Service Fund established by Section 14813 for distribution pursuant to that section.

14803. (a) During the first two full fiscal years following the effective date of this act, the Controller shall set aside 85 percent of CETF funds for allocation to local educational agencies for K–12 schools, and 15 percent of CETF funds for allocation to the Superintendent for provision to early care and education programs, in the amounts and manner set forth in this act. These funds, minus actual costs pursuant to subdivision (b) of Section 14802, shall be deemed "available revenues" under Section 14804.

(b) In order to provide stability and avoid wide fluctuations in funding, CETF funds shall be distributed as follows in each fiscal year subsequent to the first two full fiscal years following the effective date of this act:

(1) (A) Commencing with the 2015–16 fiscal year and for every year other than the 2017–18 fiscal year, at the beginning of the fiscal year, the Fiscal Oversight Board shall determine the average rate at which California personal income per capita has grown over the previous five years and shall apply that percentage rate of growth to the CETF funds that were distributed to LEAs and the Superintendent from the California Education Trust Fund in the fiscal year that just ended.

(B) For the 2017–18 fiscal year only, in order to make the transition from the temporary support funds provided by subdivision (a) of Section 14802.1 to full funding of K–12 schools and ECE programs, at the beginning of the fiscal year, the Fiscal Oversight Board shall determine the average rate at which California personal income per capita has grown over the previous five years and shall apply that percentage rate of growth to the product of 1.429 times the amount of CETF funds that were distributed to LEAs and the Superintendent from the California Education Trust Fund in the fiscal year that just ended.

(2) The amount determined pursuant to paragraph (1), minus actual costs pursuant to subdivision (b) of Section 14802, shall be deemed "available revenues" under Section 14804 and shall be available for distribution on a quarterly basis to LEAs and the Superintendent in the fiscal year then beginning.

(c) CETF funds that exceed available revenues shall be distributed at the end of the fiscal year pursuant to Section 14813.

(d) All CETF funds allocated to LEAs shall be spent by LEAs within one year of receipt; provided, however, that LEAs may carry over no more than 10 percent of these moneys for expenditure in the following school year. The Fiscal Oversight Board shall recapture any funds not expended within the original one-year period and any funds carried over but not spent within the following year. All funds that are recaptured shall be deemed available revenues, shall be combined with other available revenues, and shall be reallocated in accordance with Section 14804.

14804. (a) On a quarterly basis, the Controller shall draw warrants on and distribute 15 percent of the available revenues to the Superintendent for provision to early care and education programs and supports in the manner and amounts provided by Chapter 1.8 (commencing with Section 8160) of Part 6.

(b) On a quarterly basis, the Controller shall draw warrants on and distribute 85 percent of the available revenues to LEAs, earmarked for expenditure at each K–12 school within each LEA's jurisdiction, in the amounts calculated by the Controller pursuant to Sections 14805 to 14807, inclusive.

(c) This section, and Sections 14802.1, 14803, 14805, 14806, and 14807, are self-executing and require no legislative action to take effect. Distribution of CETF funds and temporary

support funds shall not be delayed or otherwise affected by failure of the Legislature and the Governor to enact an annual Budget Bill pursuant to Section 12 of Article IV of the California Constitution, nor by any other action or inaction on the part of the Governor or the Legislature.

14805. Of the available revenues allocated for quarterly distribution to LEAs under subdivision (b) of Section 14804, the Controller shall distribute 70 percent as per-pupil educational program grants. The number and size of the educational program grants to be distributed to each LEA, and the number and size of the educational program grants to be earmarked for each K–12 school under the LEA's jurisdiction, shall be as follows:

(a) The Controller shall establish a uniform, statewide per-pupil grant for each of the following three grade level groupings: kindergarten through 3rd grade, inclusive (the "K–3 grant"), 4th through 8th grade, inclusive (the "4–8 grant"), and 9th through 12th grade, inclusive (the "9–12 grant").

(b) These uniform grants shall be based on total statewide enrollment in each of the three grade level groupings. The per-pupil 4–8 grant amount shall be 120 percent of the per-pupil K–3 grant amount, and the per-pupil 9–12 grant amount shall be 140 percent of the per-pupil K–3 grant amount.

(c) Each LEA shall receive the same number of K–3 grants as it has enrollment in kindergarten through 3rd grade, inclusive; the same number of 4–8 grants as it has enrollment in 4th through 8th grade, inclusive; and the same number of 9–12 grants as it has enrollment in 9th through 12th grade, inclusive.

(d) Each of these per-pupil grants shall be earmarked for the specific K–12 school whose enrollment gave rise to the LEA's eligibility for that grant.

(e) The grade level adjustments provided in subdivisions (a) and (b) shall be the only deviation allowed in the equal per-pupil distribution of the educational program funds to all K–12 schools according to their enrollments.

14806. Of the available revenues allocated for quarterly distribution to LEAs under subdivision (b) of Section 14804, the Controller shall distribute 18 percent as low-income per-pupil grants. The number and size of the low-income per-pupil grants to be distributed to each eligible LEA, and the number and size of the low-income per-pupil grants to be earmarked for each K–12 school under the LEA's jurisdiction, shall be as follows:

(a) Based on the total statewide enrollment of pupils in all K–12 schools who are identified as eligible for free meals under the Income Eligibility Guidelines established by the United States Department of Agriculture to implement the federal Richard B. Russell National School Lunch Act and the federal Child Nutrition Act of 1966 (" free meal eligible pupils"), the Controller shall establish a uniform, statewide per-pupil grant to provide additional educational support for these low-income pupils ("the low-income per-pupil grant").

(b) Each LEA shall receive the same number of low-income per-pupil grants as it has free-meal-eligible pupils.

(c) Each of these low-income per-pupil grants shall be earmarked for the specific K–12 school whose free meal eligible pupil enrollment gave rise to the LEA's eligibility for that grant.

14807. Of the available revenues allocated for quarterly distribution to LEAs under subdivision (b) of Section 14804, the Controller shall distribute 12 percent for training, technology, and teaching materials grants on a per-pupil basis. The number and size of these grants to be distributed to each LEA, and the number and size of the grants to be earmarked for each K–12 school under the LEA's jurisdiction, shall be as follows:

(a) Based on total statewide enrollment for all K–12 schools, the Controller shall establish a uniform, statewide per-pupil grant to support increased instructional skills for K–12 school staff and up-to-date technology and teaching materials ("training, technology, and teaching materials grants" or "3T grants").

(b) Each LEA shall receive the same number of 3T grants as it has pupils, based on the LEA's enrollment.

(c) Each of these per-pupil 3T grants shall be earmarked for the specific K–12 school whose enrollment gave rise to the LEA's eligibility for that grant.

14808. (a) With the limited exceptions provided in paragraph (2) of subdivision (c), funds LEAs receive pursuant to Sections 14805, 14806, and 14807 shall be expended or encumbered only at the specific K–12 school for which they were earmarked pursuant to subdivision (d) of Section 14805, subdivision (c) of Section 14806, and subdivision (c) of Section 14807, respectively, and shall be used exclusively for purposes authorized by this section.

(b) Educational program and low-income pupil grants may be used for educational programs or, up to a total of 200 percent of any school's 3T grants, for any purpose permitted for a 3T grant. 3T grants shall be spent exclusively for up-to-date teaching materials and technology and to strengthen skills of school staff in ways that improve pupils' academic performance, graduation rates, and vocational, career, college, and life readiness.

(c) (1) Other than as specifically provided for in paragraph (2), all funds received pursuant to Sections 14805 to 14807, inclusive, shall be spent only for the direct provision of services or materials at K–12 schoolsites and shall not be spent on any service or material not physically delivered to the school or its pupils; nor for any full-time personnel who do not spend at least 90 percent of their compensated time physically present at the school or with the school's pupils; nor for any personnel except to cover the amount of time the personnel are physically present at the school or with the school's pupils; nor for any direct or indirect administrative costs incurred by the LEA.

(2) (A) The governing board of each LEA may withhold, on an equal percentage basis from each of the per-pupil grants it receives, an amount sufficient to cover its actual costs in complying with this part's public meeting, audit, budget, and reporting requirements. Funds withheld for such purposes shall not exceed 2 percent of total grants received in any two-year period, an average of 1 percent per year.

(B) Costs of skills improvement programs provided off site to members of the school's staff specifically to enhance their skills in providing services at the site or to the school's pupils may be covered by these per-pupil grants, when the offsite provision of such services is more cost effective than onsite provision.

(d) No CETF funds shall be used to increase salary or benefits for any personnel or category of personnel beyond the

salary and benefits that were in place for those personnel or that category of personnel as of November 1, 2012; provided, however, that positions partially or totally funded by this act may receive from CETF funds salary and benefit increases adopted by a governing board and equivalent to increases being received by other like employees in the school on a proportional basis to their partial or full-time status.

14809. No later than 30 days following each quarterly allocation of CETF funds to LEAs, the Fiscal Oversight Board shall create a list of each LEA that received funds and the amount of funds earmarked for each school within that LEA under each of the funding categories specified in Sections 14805, 14806, and 14807. The board shall publish this list online at a suitable location, and the Superintendent shall publish a link to the online listing in a prominent spot on the home page of the Superintendent's Internet Web site.

14810. Neither the Legislature nor the Governor, nor any other state or local governmental body except the governing board of the LEA that has operational jurisdiction over a school, shall direct how CETF funds are used at that school. Each LEA's governing board shall have sole authority over that decision, subject, however, to the following:

(a) Each year the governing board, in person or through appropriate representatives, shall seek input, at an open public meeting with the school's parents, teachers, administrators, other school staff, and pupils, as appropriate (the "school community"), at or near that school's site, about how CETF funds will be used at that school and why.

(b) Following that meeting, the LEA or its appropriate representatives shall offer a written recommendation for use of CETF funds at a second open public meeting at or near the schoolsite at which the school community is given an opportunity to respond to the LEA's recommendation.

(c) The governing board shall ensure that, during the decisionmaking process regarding use of CETF funds, all members of the school community are provided an opportunity to submit input in writing or online.

(d) At the time it makes its decision about the use of the funds each year, the governing board shall explain, publicly and online, how its proposed expenditures of CETF funds will improve educational outcomes and how the board will determine whether those improved outcomes have been achieved.

14811. (a) As a condition of receiving any CETF funds, each LEA shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as the California Education Trust Fund account. Each LEA shall allocate and spend the funds in that account solely in accordance with Sections 14805 to 14808, inclusive.

(b) The independent financial and compliance audit required of school districts shall, in addition to all other requirements of law, ascertain and verify whether CETF funds have been properly disbursed and expended as required by this part. This requirement shall be added to the audit guide requirements for school districts and shall be part of the audit reports annually reviewed and monitored by the Controller pursuant to Section 14504.

(c) LEAs shall annually prepare and post on their Internet Web sites, within 60 days after the close of each school year, a clear and transparent report of exactly how CETF funds were spent at each of the schools within their jurisdiction, what the goals for those expenditures were as relayed to the school community under Section 14810, and the extent to which they achieved the goals established. The Superintendent shall provide a link on his or her Internet Web site that enables community members and researchers to access all such reports statewide within two weeks after they are posted by LEAs.

14812. (a) Beginning with the 2012–13 school year, as a condition of receiving CETF funds, the governing board of each LEA that receives funds under this act shall create and publish online a budget for every school within the LEA's jurisdiction that compares actual funding and expenditures for that school from the prior fiscal year with the budgeted funding and expenditures for that school for the current fiscal year. The Internet Web site of the Superintendent shall provide a link enabling community members and researchers to access all such budgets statewide, for current and past years, dating back to the 2012–13 school year. The budget shall show the source and amount of all funds being spent at the school, including, but not limited to, funds provided under this act, and how each source category of funds is being spent. The budget shall be in a uniform format designed and approved by the Superintendent. Expenditures shall be reported overall per pupil and by average teacher salary, as well as by instruction, instructional support, administration, maintenance, and other important categories. The State Department of Education shall require and ensure that school districts and schools uniformly report expenditures by appropriate category and uniformly distinguish between school and school district expenditures. The budget shall also include personnel costs described by number, type, and seniority of personnel and use actual salary and benefit figures for employees at the school without any individual identifying information. Each K–12 school receiving money from the California Education Trust Fund shall also include these funds as a separate section in a single school plan that substantially meets the criteria of subdivisions (d), (f), and (h) of Section 64001.

(b) Allocations from the California Education Trust Fund are intended to provide pupils with additional support and programs beyond those currently provided from other state, local, and federal sources. Beginning in the 2013–14 fiscal year, LEAs shall make every reasonable effort to maintain, from funds other than those provided under this act, per-pupil expenditures at each of their schools at least equal to the 2012–13 fiscal year per-pupil expenditures, adjusted for changes in the cost of living. This shall be known as the "maintenance of effort target" for that school. The uniform schoolsite budget required by subdivision (a) shall include a clear statement of what the per-pupil expenditures were at that school in 2012–13 fiscal year from all fund sources other than those provided under this act, and a projection of what those expenditures would be for the current school year if the school had annually met its maintenance of effort target. If in any year an LEA cannot meet its maintenance of effort target for any of its schools, the LEA shall explain why in its schoolsite budget for that school and shall discuss that explanation at a public

meeting to be held at or near the schoolsite pursuant to Section 14810. At that meeting, officials from the LEA shall address why it is not possible to meet the maintenance of effort target for that particular school, and how the agency proposes to keep the failure to meet the target from having a negative impact on pupils and their families.

14813. (a) Funds allocated pursuant to subdivision (a) of Section 14802.1 and CETF funds that are determined by the Fiscal Oversight Board to exceed both available revenues and the board and Controller's actual reimbursable costs pursuant to Section 14803 shall be transferred on a quarterly basis by the Controller to the Education Debt Service Fund, which is hereby created in the State Treasury. Education Debt Service Fund moneys are held in trust and, notwithstanding Section 13340 of the Government Code, are continuously appropriated, without regard to fiscal years, for the exclusive purposes set forth in this section.

(b) Moneys in the Education Debt Service Fund shall be used solely to pay debt service on bonds, or to redeem or defease bonds, maturing in a subsequent fiscal year, that either (1) were or are issued by the state for the construction, reconstruction, rehabilitation, or replacement of pre-kindergarten through university school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for such school facilities ("school bonds"); or (2) to the limited extent permitted by subdivision (c), were or are issued by the state for children's hospital or other general obligation bonds.

(c) From moneys transferred to the Education Debt Service Fund, the Controller shall transfer, as an expenditure reduction to the General Fund, amounts necessary to offset the cost of current-year debt service payments made from the General Fund on school bonds, children's hospital, or other general obligation bonds, or to redeem or defease school bonds, children's hospital, or other general obligation bonds, as directed by the Director of Finance; provided, however, that no funds in the Education Debt Service Fund shall be used to offset the cost of current-year debt service payments on children's hospital or other general obligation bonds, or to redeem or defease children's hospital or other general obligation bonds, until and unless the Controller, at the direction of the Director of Finance, has first fully reimbursed the General Fund for the cost of current-year debt service payments on all outstanding school bonds. Funds so transferred shall not constitute General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution, for purposes of Section 8 of Article XVI of the California Constitution.

14814. (a) No later than six months following the end of each fiscal year, the Fiscal Oversight Board shall cause an independent audit to be conducted of the California Education Trust Fund and shall submit to the Legislature and the Governor, and shall post prominently on the Internet Web site of the Fiscal Oversight Board, with a link to the report clearly displayed on the Superintendent's home page, both the full audit report and an easily understandable summary of the results of that audit. The report shall include an accounting of all proceeds of the personal tax increments established pursuant to Section 17041.1 of the Revenue and Taxation Code, all transfers of those proceeds to the California Education Trust Fund, a listing of the amount of funds received from the California Education Trust Fund that fiscal year by each LEA and each school within that LEA's jurisdiction, and a summary, based on the reports required of all LEAs by subdivision (c) of Section 14811, showing the way each LEA used the funds at each of its schools and the results the LEA was seeking and achieved.

(b) The Superintendent, in consultation with the Fiscal Oversight Board, shall design and provide to each LEA and ECE provider a form or format for ensuring uniform reporting of the information required for the audit report.

(c) The costs of performing the annual audit, and of creating, distributing, and collecting the required reports, shall be determined by the Fiscal Oversight Board to ensure prudent use of funding while ensuring the intent of this act is carried out. Such costs shall be included within the items whose actual cost may be paid for by CETF funds pursuant to subdivision (b) of Section 14802.

(d) In the course of performing and reporting on the annual audit, the independent auditor shall promptly report to the Attorney General and the public any suspected allocation or use of funds in contravention of this act, whether by the Fiscal Oversight Board or its agents, or by any LEA.

(e) Every officer charged with the allocation or distribution of funds pursuant to Sections 14803, 14804, 14805, 14806, and 14807 who knowingly fails to allocate or distribute the funds to each LEA and each local school on a per-pupil basis as specified in those sections is guilty of a felony subject to prosecution by the Attorney General, or if he or she fails to act promptly, the district attorney of any county, pursuant to subdivision (b) of Section 425 of the Penal Code. The Attorney General, or if the Attorney General fails to act, the district attorney of any county, shall expeditiously investigate and may seek criminal penalties and immediate injunctive relief for any allocation or distribution of funds in contravention of Sections 14803, 14804, 14805, 14806, and 14807.

SEC. 5. Section 46305 of the Education Code is amended to read:

46305. Each elementary, high school, and unified school district, *and each independent charter school, county office of education, and state-run school,* shall report to the Superintendent of Public Instruction on forms prepared by the Department of Education in addition to all other attendance data as required, the active enrollment as of the third Wednesday of each school month and the actual attendance on the third Wednesday of each school month; except that if such day is a school holiday, the active enrollment and actual attendance of the first immediate preceding schoolday shall be reported. "Active enrollment" on a day a count is taken means the pupils in enrollment in the regular schooldays of the district on the first day of the school year on which the schools were in session, plus all later enrollees, minus all ~~withdrawals since that day~~ *pupils who have not been in attendance for at least one day between the first day of the school year or the first schoolday immediately following the next preceding day for which a count was taken pursuant to this section, whichever is later, and the day the count is being taken, inclusive. The Superintendent may, as necessary, modify the collection dates or methodologies*

in order to reduce any local educational agency's administrative duties in the implementation of this section.

SEC. 6. Chapter 1.8 (commencing with Section 8160) is added to Part 6 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 1.8. EARLY CHILDHOOD QUALITY IMPROVEMENT AND EXPANSION PROGRAM

Article 1. General Provisions

8160. The following definitions shall apply throughout this chapter:

(a) The terms "early care and education program" or "ECE program" mean any state-funded or state-subsidized preschool, child care, or other state-funded or state-subsidized early care and education program for children from birth to kindergarten eligibility, including but not limited to programs supported in whole or in part with funds from the California Children and Families Trust Fund. Where an ECE program is not funded exclusively with state funds, the term "ECE program" means that portion of the program that is state funded.

(b) The term "ECE provider" or "provider" means any person or agency legally authorized to deliver an ECE program.

(c) The term "take-up rates" means the degree to which ECE providers apply for and are granted program funding under the provisions of this chapter.

(d) The term "reimbursement rate" means the per-child payment ECE providers receive on behalf of eligible families from state funds to cover their costs in providing ECE services.

(e) The term "ECE funds" means the funds allocated to early care and education pursuant to Sections 14803 and 14804.

(f) The term "SAE funds" means funds set aside for strengthening and expanding ECE programs pursuant to subdivision (b) of Section 8161.

(g) The term "highly at-risk children" means children who are from low-income birth families, low-income foster families, or low-income group homes and who also (1) are in foster care or have been referred to Child Protective Services; (2) are the children of young parents who are themselves in foster care; or (3) are otherwise abused, neglected, or exploited, or probably in danger of being abused, neglected, or exploited, as shall be further defined by the Superintendent.

8161. ECE funds shall be allocated annually to the Superintendent to be used as follows:

(a) No more than 23 percent of the ECE funds shall be used as follows:

(1) Three hundred million dollars ($300,000,000) for existing ECE programs to restore funding to fiscal year 2008–09 levels in proportion to reductions made to each ECE program in fiscal years 2009–10 through 2012–13, inclusive, subject to the following:

(A) Restoration shall apply equally to all types of reductions, whether accomplished by reduced child eligibility, reduced reimbursement rates, reduction in contract amounts, reduction in number of contracts let, or otherwise.

(B) To the extent the Superintendent is required to allocate funds to the State Department of Social Services or any successor agency to accomplish this restoration of funds, he or she shall do so.

(C) If the Superintendent and the State Department of Social Services jointly find that any funds cannot be restored due to shortfalls in take-up rates, those funds shall be used to increase the baseline quality reimbursement rates established pursuant to subdivision (b) of Section 8168.

(2) Five million dollars ($5,000,000) to the Community Care Licensing Division of the State Department of Social Services, or any successor agency, to increase the frequency of licensing inspections of ECE providers beyond fiscal year 2011–12 levels under terms agreed upon by the Superintendent and the State Department of Social Services or any successor agency by no later than July 1, 2013.

(3) Up to ten million dollars ($10,000,000) to develop and implement the database established pursuant to Section 8171 to track the educational progress of children who have participated in the state's ECE programs.

(4) Forty million dollars ($40,000,000) to develop, implement, and maintain the Early Learning Quality Rating and Improvement System ("the QRIS system") established pursuant to Article 4 (commencing with Section 8167). Funds provided by this section shall not be used for increases in provider reimbursement rates or other provider compensation, but rather for the design, implementation, and evaluation of the system, for ECE provider assessment and skills development, for improving and expanding the ECE skills development programs offered by community colleges and other high-quality trainers, for data keeping and analysis, and for communication with the public about the quality levels being achieved by ECE providers.

(5) The amounts set forth in paragraphs (1) to (4), inclusive, shall be adjusted annually by the inflation adjustment calculated pursuant to subdivision (b) of Section 42238.1 as it read on the date of enactment of this section.

(6) In any year in which ECE funds are insufficient to cover the requirements of paragraphs (1), (3), and (4), the amounts required by those paragraphs shall be reduced pro rata.

(b) After allocating the restoration and system improvement funds provided in subdivision (a), the Superintendent shall use the remaining ECE funds, to be known as "the SAE funds" pursuant to subdivision (f) of Section 8160, to strengthen and expand ECE programs as set forth in this chapter.

(c) ECE funds allocated to the Superintendent shall be spent for the purposes provided in this chapter within one year of their receipt by the Superintendent. The Fiscal Oversight Board established pursuant to Section 14802 shall annually recover any unspent funds, and they shall again become part of the ECE funds, to be re-allocated pursuant to this chapter.

8162. (a) Except as may be required by federal law, any child's eligibility for any ECE program, including, but not limited to, any ECE program established, improved, or expanded with funds allocated under this chapter, shall be established once annually upon the child's enrollment in the program. Subsequent to enrollment, a child shall be deemed eligible to participate in the program for the remainder of the program year, and then may re-establish eligibility in subsequent years on an annual basis.

(b) Beginning in the 2013–14 fiscal year, the annual appropriation for ECE programs as a percentage of the General

Fund shall not be reduced as a result of funds allocated pursuant to this act below the percentage of General Fund revenues appropriated for ECE programs in the 2012–13 fiscal year.

8163. The Superintendent shall allocate SAE funds as follows:

(a) Twenty-five percent of the SAE funds shall be allocated for the benefit of children aged birth to three years pursuant to this subdivision as follows:

(1) Up to 1 percent of the SAE funds shall be allocated to raise the reimbursement rate in contracted group care programs for children younger than 18 months of age to the baseline quality reimbursement rate established pursuant to subdivision (b) of Section 8168.

(2) Up to 2½ percent of the SAE funds, as take-up rates permit, shall be allocated to increase reimbursement rates above 2012–13 fiscal year rates through a supplement provided under the QRIS system for those ECE programs and providers serving children aged birth to three years that improve their quality standards under the QRIS system or demonstrate that they already meet a QRIS quality standard higher than the baseline quality standard established pursuant to subdivision (b) of Section 8168.

(3) Twenty-one and one-half percent of the SAE funds shall be allocated to the California Early Head Start program established pursuant to Article 2 (commencing with Section 8164). No less than 35 percent of the SAE funds allocated to the California Early Head Start program under this paragraph shall be used specifically for strengthening parents and other caregivers pursuant to subdivision (d) of Section 8164.

(b) Seventy-five percent of the SAE funds shall be used to expand and strengthen preschool programs for children of three to five years of age, as set forth in Article 3 (commencing with Section 8165).

(c) No more than 3 percent of the SAE funds shall be spent for administrative costs incurred at the state level.

(d) No more than 15 percent of the funding an ECE provider receives from SAE funds shall be used for re-purposing, renovation, development, maintenance or rent, and lease expense for an appropriate program facility. The Superintendent shall promulgate appropriate regulations to oversee and structure appropriate use of SAE funds for facilities.

Article 2. California Early Head Start Program

8164. Using the funds allocated pursuant to paragraph (3) of subdivision (a) of Section 8163, the Superintendent shall develop and implement the California Early Head Start program to expand care for children aged birth to three years as follows:

(a) The program shall be under the ongoing regulation and control of the Superintendent, but it shall be modeled on the federal Early Head Start program established pursuant to Section 9840a of Title 42 of the United States Code. In consultation with the Early Learning Advisory Council (ELAC) described in Section 8167, the Superintendent shall ensure that, at minimum, the California Early Head Start program complies with all content and quality standards and requirements in place as of November 2011, for the federal Early Head Start program. The Superintendent may adopt subsequent federal Early Head Start program standards and requirements at his or her discretion.

(b) Funds used for the California Early Head Start program shall not be used to supplant money currently spent on any other state or federal program for children aged birth to three years.

(c) The Superintendent shall adopt the same eligibility standards used by the federal Early Head Start program as of November 2011; provided, however, that highest priority for enrollment shall go first to highly at-risk children as defined in paragraph (1) of subdivision (g) of Section 8160, then to highly at-risk children as defined in paragraph (2) of subdivision (g) of Section 8160, and then to highly at-risk children as defined in paragraph (3) of subdivision (g) of Section 8160.

(d) In addition to providing high-quality group care in licensed centers and family child care homes, the California Early Head Start program shall provide services to families and caregivers of children who are not enrolled in a California Early Head Start group care setting. These services shall be designed to strengthen the capacity of parents and caregivers of children aged birth to three years to improve the care, education, and health of very young children both in group care settings and at home. Services may include any of those that may be offered to families of federal or California Early Head Start group care enrollees, including but not limited to voluntary home visits, early developmental screenings and interventions, family and caregiver literacy programs, and parent and caregiver trainings. Among programs provided to caregivers pursuant to this subdivision, priority shall go to programs for license-exempt family, friend, and neighbor providers.

(e) In consultation with ELAC, the Superintendent shall establish quality standards for the services provided under subdivision (d), incorporating the standards and training regimens of the federal Early Head Start program. The Superintendent shall coordinate with other public agencies that operate similar programs to ensure uniform standards across these programs.

(f) California Early Head Start funds may be used to expand the number of children served by existing ECE programs for children aged birth to three years, provided that the programs meet the quality standards described in subdivisions (a) and (e) and the children served meet the eligibility criteria of subdivision (c).

(g) At least 75 percent of the group care spaces created statewide with California Early Head Start funds shall provide full-day, full-year care.

Article 3. Strengthening and Expanding Preschool Programs

8165. (a) SAE funds allocated to strengthen and expand preschool programs for three-to-five-year olds pursuant to subdivision (b) of Section 8163 shall be allocated as follows:

(1) Up to 8 percent of SAE funds, as take-up rates permit, to increase reimbursement rates above 2012–13 fiscal year rates through a supplement provided under the QRIS system for those ECE programs and providers serving children three to five years of age that improve their quality standards under the QRIS system or demonstrate that they already meet a QRIS quality standard higher than the baseline quality standard established pursuant to subdivision (b) of Section 8168.

(2) The remainder, no less than 67 percent of all SAE funds, shall be used to expand the number of children served by high-quality preschool programs for three- to five year olds in licensed or K–12 based programs that meet the two highest quality ratings established under the QRIS system. Until the statewide QRIS is established and able to assess the quality of significant numbers of programs, the Superintendent may issue temporary regulations authorizing use of the expansion funds described in this subdivision for programs otherwise shown to meet high-quality standards, including but not limited to programs having ratings in the top two tiers of pre-existing local or regional QRIS systems, programs with nationally recognized quality accreditations, or programs meeting the quality standards applicable to transitional kindergarten. QRIS program standards shall be established and publicly available no later than January 1, 2014. Providers qualified under the Superintendent's temporary regulations shall receive priority for evaluation under the new system. The temporary regulations shall sunset on January 1, 2015, and the provisionally certified providers shall then, to retain funding, be qualified under the established QRIS program standards by no later than January 1, 2017.

(3) At least 65 percent of the new spaces created statewide pursuant to paragraph (2), shall be full-day, full-year spaces, which may be created solely through this chapter or by combining funding from two or more sources to create a combined schoolday, after school, and summer enrichment program.

(b) Children shall be deemed to be "three to five years of age" and thus eligible for programs funded pursuant to paragraph (2) of subdivision (a), if they are three or four years old as of September 1 of the school year in which they are enrolled in the programs and are not yet eligible to attend kindergarten.

8166. (a) Using data from the United States Census Bureau, the Superintendent shall disburse the funds allocated pursuant to paragraph (2) of subdivision (a) of Section 8165 (the "preschool expansion funds") according to an income-ordered list of all California neighborhoods, starting with the lowest income neighborhood and progressing as far up the list of neighborhoods by income as the preschool expansion funds permit, as follows:

(1) The Superintendent shall create a neighborhood list based on median household income and on neighborhoods as defined by ZIP Codes or an equivalent geographic unit. Throughout this section, the term "neighborhood" means a ZIP Code or equivalent geographic unit included in the neighborhood list. Using available data on ECE availability, the Superintendent shall identify annually the neighborhoods and school districts within which children live who are age-eligible for preschool expansion funds and who do not currently have access to an ECE program or a transitional kindergarten program.

(2) For each ZIP Code or equivalent geographic unit, the Superintendent shall determine the number of eligible, unserved children and inform the school district, the licensed Family Child Care Home Education Networks ("licensed networks"), the licensed center-based ECE providers, and the providers of federal Head Start or other federal ECE programs ("federal providers") operating within the ZIP Code or equivalent geographic unit that they are eligible to expand their programs to serve these children, and solicit applications from them for preschool expansion funding. To be eligible for funding, applicants shall be able and willing to serve the eligible children for whom they are applying in the first school year following notification of eligibility.

(3) Licensed networks, licensed center-based ECE programs, and federal providers operating within the ZIP Code or other geographic unit shall have priority if there are duplicate applications for the same eligibility. By awarding priority to joint applications, the Superintendent shall encourage school districts, licensed networks, licensed center-based ECE providers, and federal providers in eligible areas to cooperate in a joint application that maximizes the strengths of all programs and minimizes disputes. If the eligible school district, the eligible networks, the eligible center-based programs, and the federal providers are all unable or decline to serve children they are eligible to serve, or any of them, the Superintendent shall request proposals from alternative qualified local educational agencies, licensed networks, licensed center-based ECE providers, and federal providers to serve the eligible children. In seeking alternative qualified providers, the Superintendent shall communicate, specifically but without limitation, with alternative payment providers working in the county where the eligible children reside.

(4) Attendance at preschool, including preschool programs established or expanded pursuant to this chapter, is voluntary. Unfilled spaces that have been offered in any ZIP Code or equivalent geographic unit for three consecutive years, with effective outreach throughout the eligible community, but have still not been filled, may be deemed declined, and may be offered to the next highest income neighborhood on the neighborhood list.

(5) At least once every five years, the Superintendent shall review which spaces have been deemed declined and shall restore lost eligibility to any neighborhood to the extent changed conditions indicate that the spaces would now be filled.

(b) Children will be eligible to attend programs funded with preschool expansion funds upon proving either that they reside in an eligible ZIP Code or equivalent geographic unit or that their families meet the income eligibility requirements of any existing means-tested ECE program; provided, however, that highest priority for enrollment shall go first to highly at-risk children as defined in paragraph (1) of subdivision (g) of Section 8160, then to highly at-risk children as defined in paragraph (2) of that subdivision, and then to highly at-risk children as defined in paragraph (3) of that subdivision.

Article 4. California Early Learning Quality Rating and Improvement System

8167. As used in this article, the term "Early Learning Advisory Council" (ELAC) means the Early Learning Advisory Council established pursuant to Executive Order S-23-09 or any successor agency.

8168. (a) Taking into consideration the report and recommendations prepared by the California Early Learning Quality Improvement System Advisory Committee in 2010, the Superintendent, in consultation with ELAC, shall develop and

implement an Early Learning Quality Rating and Improvement System (QRIS system) by no later than January 1, 2014, that includes all of the following:

(1) A voluntary quality rating scale available to all ECE programs, including preschool, that serve children from birth to five years of age, inclusive, including preschool age children, infants, and toddlers. The quality rating scale shall give highest priority to those features of ECE programs that have been demonstrated to contribute most effectively to young children's healthy social and emotional development and readiness for success in school.

(2) A voluntary assessment and skills-development program to help ECE providers increase the quality ratings of their programs under the QRIS system.

(3) A method for increasing reimbursement rates above 2011–12 fiscal year rates through a supplement provided for ECE programs and providers that improve their ratings or verify that they already meet higher ratings standards under the QRIS system.

(4) A means by which parents and caregivers receive accurate information about the quality and type of program in which their children are enrolled or may be enrolled, including prompt publication of the quality ratings of programs and providers conducted pursuant to the QRIS system.

(b) The Superintendent, in consultation with ELAC, shall also establish baseline quality reimbursement rates that are sufficient to cover the cost of providing ECE programs at the quality standards applicable to those programs under the laws and regulations that governed those programs as of November 1, 2012 (the "baseline quality reimbursement rate"). If any current reimbursement rate is below the baseline quality reimbursement rate, the Superintendent may use any funds available under subparagraph (C) of paragraph (1) of subdivision (a) of Section 8161, or for programs for children younger than 18 months, the funds available under paragraph (1) of subdivision (a) of Section 8163, to increase that reimbursement rate.

8169. (a) ELAC and the Superintendent shall collaborate with local planning councils, the First 5 California Commission, and each county First 5 commission to develop and oversee the QRIS, the California Early Head Start program, and preschool expansion programs established pursuant to Article 2 (commencing with Section 8164), Article 3 (commencing with Section 8165), and this article. These persons and entities shall work together to utilize local, state, federal, and private resources, including resources available pursuant to the California Children and Families Act of 1998 (Division 108 (commencing with Section 130100) of the Health and Safety Code), as part of a comprehensive effort to advance the efficiency, educational and developmental effectiveness, and community responsiveness of the ECE system.

(b) ELAC shall hold at least one joint public meeting each year in each region of the state with the region's local planning councils and the region's county First 5 commissions (alternatively known as California Children and Families Commissions) to receive public input and report on the progress of the programs established pursuant to this act.

(c) Funds provided under paragraph (4) of sudivision (a) of Section 8161 may be used to fund the collaboration and convening activities required by this section.

8170. (a) The Superintendent shall account for moneys received pursuant to this chapter separately from all other moneys received or spent and shall, within 90 days after the close of each fiscal year, prepare an annual report that lists the ECE programs that received funding with their quality ratings as available; the amounts each program received; the number of children they served; the types of services the children received; and the child outcomes achieved as available. The Superintendent shall post the report as soon as it is prepared on the Superintendent's Internet Web site and provide a link to it on his or her home page. The report shall be included in the report issued pursuant to Section 8236.1. The Fiscal Oversight Board shall verify the contents of the report and include it in the annual audit report required by subdivision (a) of Section 14814.

(b) The Superintendent shall also do all of the following:

(1) Monitor the award of contracts to ensure that ECE providers meet quality standards.

(2) Ensure uniform financial reporting and independent annual audits for all ECE providers receiving funds under this chapter.

(3) Receive, investigate, and act upon complaints regarding any aspect of the programs established pursuant to this chapter.

8171. (a) By no later than July 1, 2014, the Superintendent shall ensure that every child aged birth to five years who participates in an ECE program is assigned a unique identifier that is recorded and maintained as part of a statewide Early Education Services Database.

(b) The Early Education Services Database shall be an integral part of the California Longitudinal Pupil Achievement Data System (CALPADS), or any successor pupil-level data system that can trace a child's educational path from birth to 18 years of age, so that any child's full educational history, including ECE participation, will be automatically accessible through the child's unique identifier.

(c) At a minimum, the Early Education Services Database shall include all of the following for each child:

(1) The child's ZIP Code of residence each year.

(2) What ECE services the child received each year, such as whether the child attended a full or part-day program.

(3) The setting in which the ECE services were delivered.

(4) The agency that delivered the ECE services.

(5) The QRIS rating and any other quality rating available for that ECE provider.

(6) The child's kindergarten-readiness assessment, if available, including, but not limited to, the child's primary home language, level of fluency, and whether the child was screened for early intervention.

(d) CALPADS shall be reimbursed for its actual cost of implementing this section, up to the annual amount allocated in paragraph (3) of subdivision (a) of Section 8161.

8172. The Superintendent shall issue regulations, including emergency regulations, in order to implement this chapter.

SEC. 7. Section 425 of the Penal Code is amended to read:

425. *(a)* Every officer charged with the receipt, safe

keeping, or disbursement of public moneys, who neglects or fails to keep and pay over the same in the manner prescribed by law, is guilty of *a* felony.

(b) Every officer charged with the allocation or distribution of funds pursuant to Sections 14803, 14804, 14805, 14806, and 14807 of the Education Code who knowingly fails to allocate or distribute the funds to each local educational agency or each local school on a per-pupil basis as specified in those sections is guilty of a felony, subject to prosecution by the Attorney General or, if he or she fails to act promptly, the district attorney of any county. The Attorney General or, if the Attorney General fails to act, the district attorney of any county, shall expeditiously investigate and may seek criminal penalties and immediate injunctive relief for any allocation or distribution of funds in contravention of Sections 14803, 14804, 14805, 14806, and 14807 of the Education Code. Any person guilty of violating this subdivision shall be punished pursuant to Section 18 and shall be disqualified from holding any office in this state.

SEC. 8. Section 17041.1 is added to the Revenue and Taxation Code, to read:

17041.1. (a) For each taxable year beginning on or after January 1, 2013, in addition to any other taxes imposed by this part, an additional tax is hereby imposed on the taxable income of any taxpayer whose tax is computed under subdivision (a) of Section 17041 to support the California Education Trust Fund. The additional tax for taxable years beginning on or after January 1, 2013 and before January 1, 2014 shall be computed based on the following rate table, with the tax brackets adjusted as provided by subdivision (h) of Section 17041 for the changes in the California Consumer Price Index between 2011 and 2013:

If the taxable income is:	*The additional tax on taxable income is:*
Not over $7,316	*0*
Over $7,316 but not over $17,346	*0.4% of the excess over $7,316*
Over $17,346 but not over $27,377	*$40 plus 0.7% of the excess over $17,346*
Over $27,377 but not over $38,004	*$110 plus 1.1% of the excess over $27,377*
Over $38,004 but not over $48,029	*$227 plus 1.4% of the excess over $38,004*
Over $48,029 but not over $100,000	*$368 plus 1.6% of the excess over $48,029*
Over $100,000 but not over $250,000	*$1,199 plus 1.8% of the excess over $100,000*
Over $250,000 but not over $500,000	*$3,899 plus 1.9% of the excess over $250,000*
Over $500,000 but not over $1,000,000	*$8,649 plus 2.0% of the excess over $500,000*
Over $1,000,000 but not over $2,500,000	*$18,649 plus 2.1% of the excess over $1,000,000*
Over $2,500,000	*$50,149 plus 2.2% of the excess over $2,500,000*

(b) For each taxable year beginning on or after January 1, 2013, in addition to any other taxes imposed by this part, an additional tax is hereby imposed on the taxable income of any taxpayer whose tax is computed under subdivision (c) of Section 17041 to support the California Education Trust Fund. The additional tax for taxable years beginning on or after January 1, 2013, and before January 1, 2014, shall be computed based on the following rate table, with the tax brackets adjusted as provided by subdivision (h) of Section 17041 for the changes in the California Consumer Price Index between 2011 and 2013:

If the taxable income is:	*The additional tax on taxable income is:*
Not over $14,642	*0%*
Over $14,642 but not over $34,692	*0.4% of the excess over $14,642*
Over $34,692 but not over $44,721	*$80 plus 0.7% of the excess over $34,692*
Over $44,721 but not over $55,348	*$150 plus 1.1% of the excess over $44,721*
Over $55,348 but not over $65,376	*$267 plus 1.4% of the excess over $55,348*
Over $65,376 but not over $136,118	*$408 plus 1.6% of the excess over $65,376*
Over $136,118 but not over $340,294	*$1,540 plus 1.8% of the excess over $136,118*
Over $340,294 but not over $680,589	*$5,215 plus 1.9% of the excess over $340,294*
Over $680,589 but not over $1,361,178	*$11,680 plus 2.0% of the excess over $680,589*
Over $1,361,178 but not over $3,402,944	*$25,292 plus 2.1% of the excess over $1,361,178*
Over $3,402,944	*$68,169 plus 2.2% of the excess over $3,402,944*

(c) For taxable years beginning on or after January 1, 2014, the additional tax imposed under this section shall be computed based on the tax rate tables described in subdivisions (a) and (b), with the brackets in effect for taxable years beginning on or after January 1, 2013, and before January 1, 2014, adjusted annually as provided by subdivision (h) of Section 17041 for the change in the California Consumer Price Index.

(d) Except as provided in subdivisions (e) and (f), the additional tax imposed under this section shall be deemed to be a tax imposed under Section 17041 for purposes of all other provisions of this code, including Section 17045 or any successor provision relating to joint returns.

(e) The estimated amount of revenues, less refunds, derived from the additional tax imposed under this section shall be deposited on a monthly basis in the California Education Trust Fund, established by Section 14801 of the Education Code, in a manner that corresponds to the process set forth in Section 19602.5 of this code and is established by regulation by the Franchise Tax Board, based on the additional tax imposed under this section, no later than December 1, 2012. The adoption, amendment, or repeal of a regulation authorized by

this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(f) Notwithstanding Section 13340 of the Government Code, the California Education Trust Fund is hereby continuously appropriated, without regard to fiscal year, solely for the funding of the Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act.

(g) The additional tax imposed under this section does not apply to any taxable year beginning on or after January 1, 2025, except as may otherwise be provided in a measure that extends the Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act and is approved by the electorate at a statewide election held on or before the first Tuesday after the first Monday in November of 2024.

SEC. 9. Section 19602 of the Revenue and Taxation Code is amended to read:

19602. Except for amounts collected or accrued under Sections 17935, 17941, 17948, 19532, and 19561, ~~and~~ revenues deposited pursuant to Section 19602.5, *and revenues collected pursuant to Section 17041.1,* all moneys and remittances received by the Franchise Tax Board as amounts imposed under Part 10 (commencing with Section 17001), and related penalties, additions to tax, and interest imposed under this part, shall be deposited, after clearance of remittances, in the State Treasury and credited to the Personal Income Tax Fund.

SEC. 10. Severability.

The provisions of this act are meant to be severable. If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, that finding shall not affect the remaining provisions of the act or the application of this measure to other persons or circumstances.

SEC. 11. Conflicting Initiatives.

(a) In the event that this measure and another measure or measures amending the California personal income tax rate for any taxpayer or group of taxpayers, or amending the rate of tax imposed on retailers for the privilege of selling tangible personal property at retail, or amending the rate of excise tax imposed on the storage, use or other consumption in this state of tangible personal property purchased from any retailer for storage, use or other consumption in this state, shall appear on the same statewide election ballot, the rate-amending provisions of the other measure or measures and all provisions of that measure that are funded by its rate-amending provisions, shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than any such other measure, the rate-amending provisions of the other measure, and all provisions of that measure that are funded by its rate-amending provisions, shall be null and void, and the provisions of this measure shall prevail instead.

(b) Conflicts between other provisions not subject to subdivision (a) shall be resolved pursuant to subdivision (b) of Section 10 of Article II of the California Constitution.

SEC. 12. Amendments.

This act may not be amended except by majority vote of the people in a statewide general election.

SEC. 13. Effective Dates and Expiration.

(a) This measure shall be effective the day after its enactment. Operative dates for the various provisions of this measure shall be those set forth in the act.

(b) The tax imposed by subdivisions (a) and (b) of Section 17041.1 of the Revenue and Taxation Code added pursuant to this act shall cease to be operative and shall expire on December 31, 2024, unless the voters, by majority vote, approve the extension of the act at a statewide election held on or before the first Tuesday after the first Monday in November, 2024.

PROPOSITION 39

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Public Resources Code and the Revenue and Taxation Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

THE CALIFORNIA CLEAN ENERGY JOBS ACT

SECTION 1. The people of the State of California do hereby find and declare all of the following:

(1) California is suffering from a devastating recession that has thrown more than a million Californians out of work.

(2) Current tax law both discourages multistate companies from locating jobs in California, and puts job-creating California companies at a competitive disadvantage.

(3) To address this problem, most other states have changed their laws to tax multistate companies on the percent of sales in that state, a tax approach referred to as the "single sales factor."

(4) If California were to adopt the single sales factor approach, the independent Legislative Analyst's Office estimates that state revenues would increase by as much as $1.1 billion per year and create a net gain of 40,000 California jobs.

(5) In addition, by dedicating a portion of increased revenue to job creation in the energy efficiency and clean energy sectors, California can create tens of thousands of additional jobs right away, reducing unemployment, improving our economy, and saving taxpayers money on energy.

(6) Additional revenue would be available to public schools consistent with current California law.

SEC. 2. Division 16.3 (commencing with Section 26200) is added to the Public Resources Code, to read:

DIVISION 16.3. CLEAN ENERGY JOB CREATION

CHAPTER 1. GENERAL PROVISIONS

26200. This division shall be known and may be cited as the California Clean Energy Jobs Act.

26201. This division has the following objectives:

(a) Create good-paying energy efficiency and clean energy jobs in California.

(b) Put Californians to work repairing and updating schools and public buildings to improve their energy efficiency and make other clean energy improvements that create jobs and save energy and money.

(c) Promote the creation of new private sector jobs improving the energy efficiency of commercial and residential buildings.

(d) Achieve the maximum amount of job creation and energy benefits with available funds.

(e) Supplement, complement, and leverage existing energy efficiency and clean energy programs to create increased economic and energy benefits for California in coordination with the California Energy Commission and the California Public Utilities Commission.

(f) Provide a full public accounting of all money spent and jobs and benefits achieved so the programs and projects funded pursuant to this division can be reviewed and evaluated.

CHAPTER 2. CLEAN ENERGY JOB CREATION FUND

26205. The Clean Energy Job Creation Fund is hereby created in the State Treasury. Except as provided in Section 26208, the sum of five hundred fifty million dollars ($550,000,000) shall be transferred from the General Fund to the Job Creation Fund in fiscal years 2013–14, 2014–15, 2015–16, 2016–17, and 2017–18. Moneys in the fund shall be available for appropriation for the purpose of funding projects that create jobs in California improving energy efficiency and expanding clean energy generation, including all of the following:

(a) Schools and public facilities:

(1) Public schools: Energy efficiency retrofits and clean energy installations, along with related improvements and repairs that contribute to reduced operating costs and improved health and safety conditions, on public schools.

(2) Universities and colleges: Energy efficiency retrofits, clean energy installations, and other energy system improvements to reduce costs and achieve energy and environmental benefits.

(3) Other public buildings and facilities: Financial and technical assistance including revolving loan funds, reduced interest loans, or other financial assistance for cost-effective energy efficiency retrofits and clean energy installations on public facilities.

(b) Job training and workforce development: Funding to the California Conservation Corps, Certified Community Conservation Corps, YouthBuild, and other existing workforce development programs to train and employ disadvantaged youth, veterans, and others on energy efficiency and clean energy projects.

(c) Public-private partnerships: Assistance to local governments in establishing and implementing Property Assessed Clean Energy (PACE) programs or similar financial and technical assistance for cost-effective retrofits that include repayment requirements. Funding shall be prioritized to maximize job creation, energy savings, and geographical and economic equity. Where feasible, repayment revenues shall be used to create revolving loan funds or similar ongoing financial assistance programs to continue job creation benefits.

26206. The following criteria apply to all expenditures from the Job Creation Fund:

(a) Project selection and oversight shall be managed by existing state and local government agencies with expertise in managing energy projects and programs.

(b) All projects shall be selected based on in-state job creation and energy benefits for each project type.

(c) All projects shall be cost effective: total benefits shall be greater than project costs over time. Project selection may include consideration of non-energy benefits, such as health and safety, in addition to energy benefits.

(d) All projects shall require contracts that identify the project specifications, costs, and projected energy savings.

(e) All projects shall be subject to audit.

(f) Program overhead costs shall not exceed 4 percent of total funding.

(g) Funds shall be appropriated only to agencies with established expertise in managing energy projects and programs.

(h) All programs shall be coordinated with the California Energy Commission and the California Public Utilities Commission to avoid duplication and maximize leverage of existing energy efficiency and clean energy efforts.

(i) Eligible expenditures include costs associated with technical assistance, and with reducing project costs and delays, such as development and implementation of processes that reduce the costs of design, permitting or financing, or other barriers to project completion and job creation.

26208. If the Department of Finance and the Legislative Analyst jointly determine that the estimated annual increase in revenues as a result of the amendment, addition, or repeal of Sections 25128, 25128.5, 25128.7, and 25136 of the Revenue and Taxation Code is less than one billion one hundred million dollars ($1,100,000,000), the amount transferred to the Job Creation Fund shall be decreased to an amount equal to one-half of the estimated annual increase in revenues.

CHAPTER 3. ACCOUNTABILITY, INDEPENDENT AUDITS, PUBLIC DISCLOSURE

26210. (a) The Citizens Oversight Board is hereby created.

(b) The board shall be composed of nine members: three members shall be appointed by the Treasurer, three members by the Controller, and three members by the Attorney General. Each appointing office shall appoint one member who meets each of the following criteria:

(1) An engineer, architect, or other professional with knowledge and expertise in building construction or design.

(2) An accountant, economist, or other professional with knowledge and expertise in evaluating financial transactions and program cost-effectiveness.

(3) A technical expert in energy efficiency, clean energy, or energy systems and programs.

(c) The California Public Utilities Commission and the California Energy Commission shall each designate an ex officio member to serve on the board.

(d) The board shall do all of the following:

(1) Annually review all expenditures from the Job Creation Fund.

(2) Commission and review an annual independent audit of the Job Creation Fund and of a selection of projects completed to assess the effectiveness of the expenditures in meeting the objectives of this division.

(3) Publish a complete accounting of all expenditures each year, posting the information on a publicly accessible Internet Web site.

(4) Submit an evaluation of the program to the Legislature identifying any changes needed to meet the objectives of this division.

CHAPTER 4. DEFINITIONS

26220. The following definitions apply to this division:

(a) "Clean energy" means a device or technology that meets the definition of "renewable energy" in Section 26003, or that contributes to improved energy management or efficiency.

(b) "Board" means the Citizens Oversight Board established in Section 26210.

(c) "Job Creation Fund" means the Clean Energy Job Creation Fund established in Section 26205.

(d) "Program overhead costs" include staffing for state agency development and management of funding programs pursuant to this division, but excluding technical assistance, evaluation, measurement, and validation, or costs related to increasing project efficiency or performance, and costs related to local implementation.

SEC. 3. Section 23101 of the Revenue and Taxation Code is amended to read:

23101. (a) "Doing business" means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(b) For taxable years beginning on or after January 1, 2011, a taxpayer is doing business in this state for a taxable year if any of the following conditions has been satisfied:

(1) The taxpayer is organized or commercially domiciled in this state.

(2) Sales, as defined in subdivision (e) or (f) of Section 25120 as applicable for the taxable year, of the taxpayer in this state exceed the lesser of five hundred thousand dollars ($500,000) or 25 percent of the taxpayer's total sales. For purposes of this paragraph, sales of the taxpayer include sales by an agent or independent contractor of the taxpayer. For purposes of this paragraph, sales in this state shall be determined using the rules for assigning sales under ~~Section~~ *Sections* 25135 and ~~subdivision (b) of Section~~ 25136, and the regulations thereunder, as modified by regulations under Section 25137.

(3) The real property and tangible personal property of the taxpayer in this state exceed the lesser of fifty thousand dollars ($50,000) or 25 percent of the taxpayer's total real property and tangible personal property. The value of real and tangible personal property and the determination of whether property is in this state shall be determined using the rules contained in Sections 25129 to 25131, inclusive, and the regulations thereunder, as modified by regulation under Section 25137.

(4) The amount paid in this state by the taxpayer for compensation, as defined in subdivision (c) of Section 25120, exceeds the lesser of fifty thousand dollars ($50,000) or 25 percent of the total compensation paid by the taxpayer. Compensation in this state shall be determined using the rules for assigning payroll contained in Section 25133 and the regulations thereunder, as modified by regulations under Section 25137.

(c) (1) The Franchise Tax Board shall annually revise the amounts in paragraphs (2), (3), and (4) of subdivision (b) in accordance with subdivision (h) of Section 17041.

(2) For purposes of the adjustment required by paragraph (1), subdivision (h) of Section 17041 shall be applied by substituting "2012" in lieu of "1988."

(d) The sales, property, and payroll of the taxpayer include the taxpayer's pro rata or distributive share of pass-through entities. For purposes of this subdivision, "pass-through entities" means a partnership or an "S" corporation.

SEC. 4. Section 25128 of the Revenue and Taxation Code is amended to read:

25128. (a) Notwithstanding Section 38006, *for taxable years beginning before January 1, 2013,* all business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four, except as provided in subdivision (b) or (c).

(b) If an apportioning trade or business derives more than 50 percent of its "gross business receipts" from conducting one or more qualified business activities, all business income of the apportioning trade or business shall be apportioned to this state by multiplying business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

(c) For purposes of this section, a "qualified business activity" means the following:

(1) An agricultural business activity.

(2) An extractive business activity.

(3) A savings and loan activity.

(4) A banking or financial business activity.

(d) For purposes of this section:

(1) "Gross business receipts" means gross receipts described in subdivision (e) or (f) of Section 25120 (other than gross receipts from sales or other transactions within an apportioning trade or business between members of a group of corporations whose income and apportionment factors are required to be included in a combined report under Section 25101, limited, if applicable, by Section 25110), whether or not the receipts are excluded from the sales factor by operation of Section 25137.

(2) "Agricultural business activity" means activities relating to any stock, dairy, poultry, fruit, fur bearing animal, or truck farm, plantation, ranch, nursery, or range. "Agricultural business activity" also includes activities relating to cultivating the soil or raising or harvesting any agricultural or horticultural commodity, including, but not limited to, the raising, shearing, feeding, caring for, training, or management of animals on a farm as well as the handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or

operator of the farm regularly produces more than one-half of the commodity so treated.

(3) "Extractive business activity" means activities relating to the production, refining, or processing of oil, natural gas, or mineral ore.

(4) "Savings and loan activity" means any activities performed by savings and loan associations or savings banks which have been chartered by federal or state law.

(5) "Banking or financial business activity" means activities attributable to dealings in money or moneyed capital in substantial competition with the business of national banks.

(6) "Apportioning trade or business" means a distinct trade or business whose business income is required to be apportioned under Sections 25101 and 25120, limited, if applicable, by Section 25110, using the same denominator for each of the applicable payroll, property, and sales factors.

(7) Paragraph (4) of subdivision (c) shall apply only if the Franchise Tax Board adopts the Proposed Multistate Tax Commission Formula for the Uniform Apportionment of Net Income from Financial Institutions, or its substantial equivalent, and shall become operative upon the same operative date as the adopted formula.

(8) In any case where the income and apportionment factors of two or more savings associations or corporations are required to be included in a combined report under Section 25101, limited, if applicable, by Section 25110, both of the following shall apply:

(A) The application of the more than 50 percent test of subdivision (b) shall be made with respect to the "gross business receipts" of the entire apportioning trade or business of the group.

(B) The entire business income of the group shall be apportioned in accordance with either subdivision (a) or (b), or ~~subdivision (b) of Section 25128.5,~~ *Section 25128.5 or 25128.7,* as applicable.

SEC. 5. Section 25128.5 of the Revenue and Taxation Code is amended to read:

25128.5. (a) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, *and before January 1, 2013,* any apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, may make an irrevocable annual election on an original timely filed return, in the manner and form prescribed by the Franchise Tax Board to apportion its income in accordance with this section, and not in accordance with Section 25128.

(b) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2011, *and before January 1, 2013,* all business income of an apportioning trade or business making an election described in subdivision (a) shall be apportioned to this state by multiplying the business income by the sales factor.

(c) The Franchise Tax Board is authorized to issue regulations necessary or appropriate regarding the making of an election under this section, including regulations that are consistent with rules prescribed for making an election under Section 25113.

(d) This section shall not apply to taxable years beginning on or after January 1, 2013, and as of December 1, 2013, is repealed.

SEC. 6. Section 25128.7 is added to the Revenue and Taxation Code, to read:

25128.7. Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2013, all business income of an apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Section 25128, shall be apportioned to this state by multiplying the business income by the sales factor.

SEC. 7. Section 25136 of the Revenue and Taxation Code is amended to read:

25136. (a) For taxable years beginning before January 1, 2011, and for taxable years beginning on or after January 1, 2011, *and before January 1, 2013,* for which Section 25128.5 is operative and an election under subdivision (a) of Section 25128.5 has not been made, sales, other than sales of tangible personal property, are in this state if:

(1) The income-producing activity is performed in this state; or

(2) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(3) This subdivision shall apply, and subdivision (b) shall not apply, for any taxable year beginning on or after January 1, 2011, *and before January 1, 2013,* for which Section 25128.5 is not operative for any taxpayer subject to the tax imposed under this part.

(b) For taxable years beginning on or after January 1, 2011, *and before January 1, 2013*:

(1) Sales from services are in this state to the extent the purchaser of the service received the benefit of the service in this state.

(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.

(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.

(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.

(5) (A) If Section 25128.5 is operative, then this subdivision shall apply in lieu of subdivision (a) for any taxable year for which an election has been made under subdivision (a) of Section 25128.5.

(B) If Section 25128.5 is not operative, then this subdivision shall not apply and subdivision (a) shall apply for any taxpayer subject to the tax imposed under this part.

(C) Notwithstanding subparagraphs (A) or (B), this subdivision shall apply for purposes of paragraph (2) of subdivision (b) of Section 23101.

(c) The Franchise Tax Board may prescribe those regulations as necessary or appropriate to carry out the purposes of subdivision (b).

(d) This section shall not apply to taxable years beginning on

or after January 1, 2013, and as of December l, 2013, is repealed.

SEC. 8. Section 25136 is added to the Revenue and Taxation Code, to read:

25136. (a) Notwithstanding Section 38006, for taxable years beginning on or after January 1, 2013, sales, other than sales of tangible personal property, are in this state if:

(1) Sales from services are in this state to the extent the purchaser of the service received the benefit of the services in this state.

(2) Sales from intangible property are in this state to the extent the property is used in this state. In the case of marketable securities, sales are in this state if the customer is in this state.

(3) Sales from the sale, lease, rental, or licensing of real property are in this state if the real property is located in this state.

(4) Sales from the rental, lease, or licensing of tangible personal property are in this state if the property is located in this state.

(b) The Franchise Tax Board may prescribe regulations as necessary or appropriate to carry out the purposes of this section.

SEC. 9. Section 25136.1 is added to the Revenue and Taxation Code, to read:

25136.1. (a) For taxable years beginning on or after January 1, 2013, a qualified taxpayer that apportions its business income under Section 25128.7 shall apply the following provisions:

(1) Notwithstanding Section 25137, qualified sales assigned to this state shall be equal to 50 percent of the amount of qualified sales that would be assigned to this state pursuant to Section 25136 but for the application of this section. The remaining 50 percent shall not be assigned to this state.

(2) All other sales shall be assigned pursuant to Section 25136.

(b) For purposes of this section:

(1) "Qualified taxpayer" means a member, as defined in paragraph (10) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations as in effect on the effective date of the act adding this section, of a combined reporting group that is also a qualified group.

(2) "Qualified group" means a combined reporting group, as defined in paragraph (3) of subdivision (b) of Section 25106.5 of Title 18 of the California Code of Regulations, as in effect on the effective date of the act adding this section, that satisfies the following conditions:

(A) Has satisfied the minimum investment requirement for the taxable year.

(B) For the combined reporting group's taxable year beginning in calendar year 2006, the combined reporting group derived more than 50 percent of its United States network gross business receipts from the operation of one or more cable systems.

(C) For purposes of satisfying the requirements of subparagraph (B), the following rules shall apply:

(i) If a member of the combined reporting group for the taxable year was not a member of the same combined reporting group for the taxable year beginning in calendar year 2006, the gross business receipts of that nonincluded member shall be included in determining the combined reporting group's gross business receipts for its taxable year beginning in calendar year 2006 as if the nonincluded member were a member of the combined reporting group for the taxable year beginning in calendar year 2006.

(ii) The gross business receipts shall include the gross business receipts of a qualified partnership, but only to the extent of a member's interest in the partnership.

(3) "Cable system" and "network" shall have the same meaning as defined in Section 5830 of the Public Utilities Code, as in effect on the effective date of the act adding this section. "Network services" means video, cable, voice, or data services.

(4) "Gross business receipts" means gross receipts as defined in paragraph (2) of subdivision (f) of Section 25120 (other than gross receipts from sales or other transactions between or among members of a combined reporting group, limited, if applicable, by Section 25110).

(5) "Minimum investment requirement" means qualified expenditures of not less than two hundred fifty million dollars ($250,000,000) by a combined reporting group during the calendar year that includes the beginning of the taxable year.

(6) "Qualified expenditures" means any combination of expenditures attributable to this state for tangible property, payroll, services, franchise fees, or any intangible property distribution or other rights, paid or incurred by or on behalf of a member of a combined reporting group.

(A) An expenditure for other than tangible property shall be attributable to this state if the member of the combined reporting group received the benefit of the purchase or expenditure in this state.

(B) A purchase of or expenditure for tangible property shall be attributable to this state if the property is placed in service in this state.

(C) Qualified expenditures shall include expenditures by a combined reporting group for property or services purchased, used, or rendered by independent contractors in this state.

(D) Qualified expenditures shall also include expenditures by a qualified partnership, but only to the extent of the member's interest in the partnership.

(7) "Qualified partnership" means a partnership if the partnership's income and apportionment factors are included in the income and apportionment factors of a member of the combined reporting group, but only to the extent of the member's interest in the partnership.

(8) "Qualified sales" means gross business receipts from the provision of any network services, other than gross business receipts from the sale or rental of customer premises equipment. "Qualified sales" shall include qualified sales by a qualified partnership, but only to the extent of a member's interest in the partnership.

(c) The rules in this section with respect to qualified sales by a qualified partnership are intended to be consistent with the rules for partnerships under paragraph (3) of subdivision (f) of Section 25137-1 of Title 18 of the California Code of Regulations.

PROPOSITION 40

The Statewide Senate Map certified by the Citizens Redistricting Commission on August 15, 2011, is submitted to the people as a referendum in accordance with subdivision (i) of Section 2 of Article XXI of the California Constitution.

PROPOSED LAW

FILED
in the office of the Secretary of State
of the State of California

AUG 15 2011

Resolution
California Citizens Redistricting Commission
Certification of Statewide Senate Map

August 15, 2011

Whereas, on July 29, 2011 the California Citizens Redistricting Commission (Commission) voted to approve for posting and public comment the statewide Senate Map (Senate Map) referred to as the preliminary final Senate Map; and,

Whereas, on August 15, 2011, pursuant to Article XXI, Section 2(c)(5) of the California Constitution, the Commission voted to adopt as final the Senate Map, identified by crc_20110815_senate_certified_statewide.zip and secure hash algorithm (SHA-1) number 14cd4e126ddc5bdce946f67376574918f3082d6b.

Now, therefore, be it resolved, that pursuant to Article XXI, Section 2 (g) of the California Constitution, the Senate Map, identified with the above referenced SHA -1 is hereby certified by the Commission and shall be delivered forthwith to the California Secretary of State; and,

Resolved further, that the members of the Commission have affixed their signatures to this Resolution.

Gabino Aguirre, Commissioner (D)

Stanley Forbes, Commissioner (DTS)

Angelo Ancheta, Commissioner (D)

Connie Galambos-Malloy, Commissioner (DTS)

Vincent Barabba, Commissioner (R)

Lilbert "Gil" Ontai, Commissioner (R)

Maria Blanco, Commissioner (D)

M. Andre Parvenu, Commissioner (DTS)

Cynthia Dai, Commissioner (D)

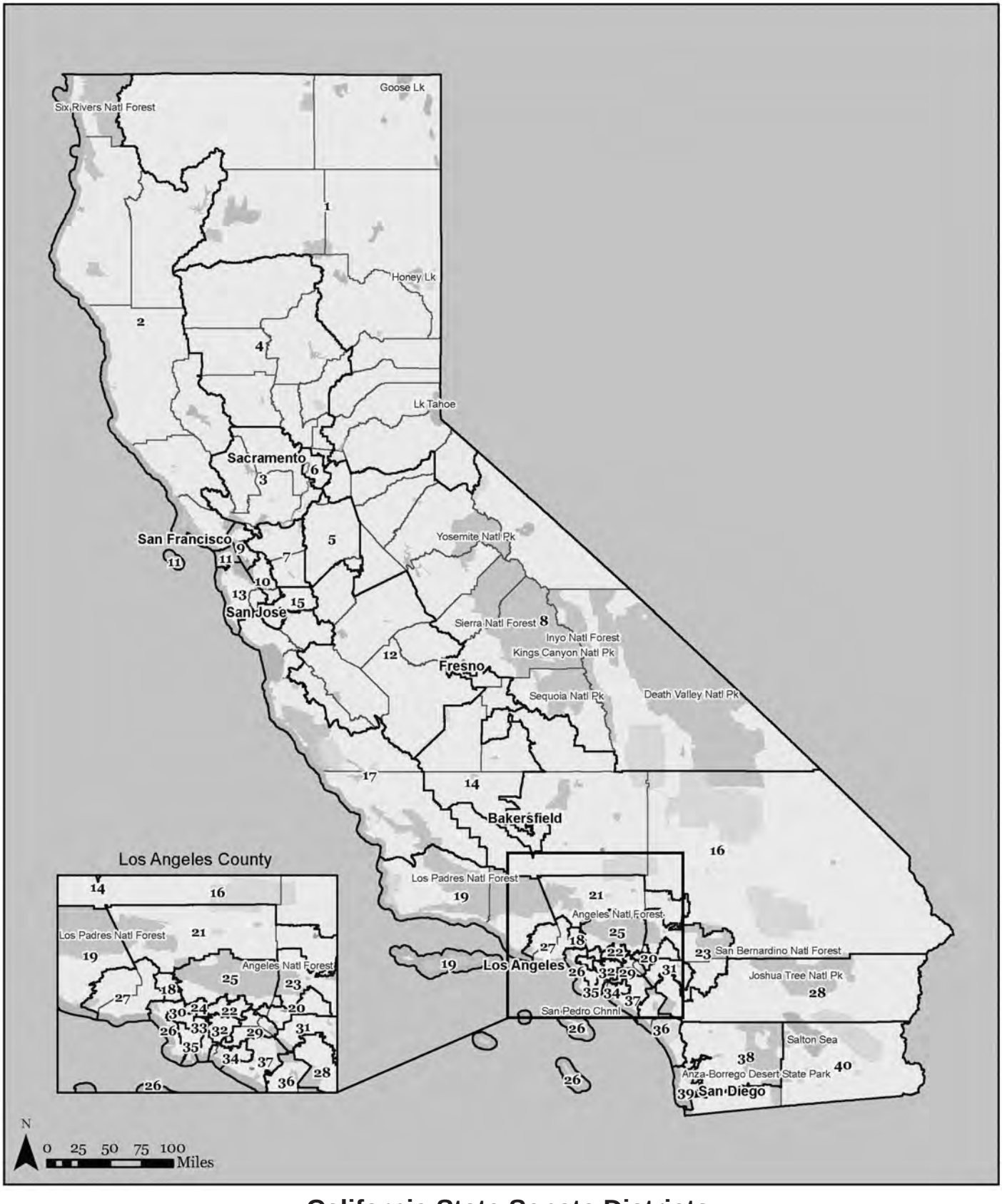
Jeanne Raya, Commissioner (D)

Michelle DiGuilio, Commissioner (DTS)

Michael Ward, Commissioner (R)

Jodie Filkins Webber, Commissioner (R)

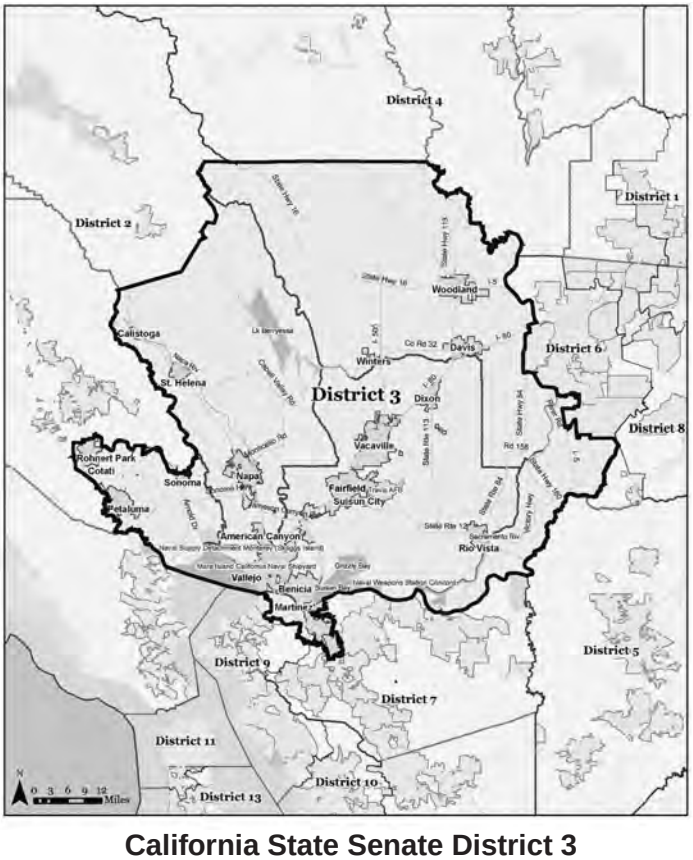
Peter Yao, Commissioner (R)



California State Senate Districts

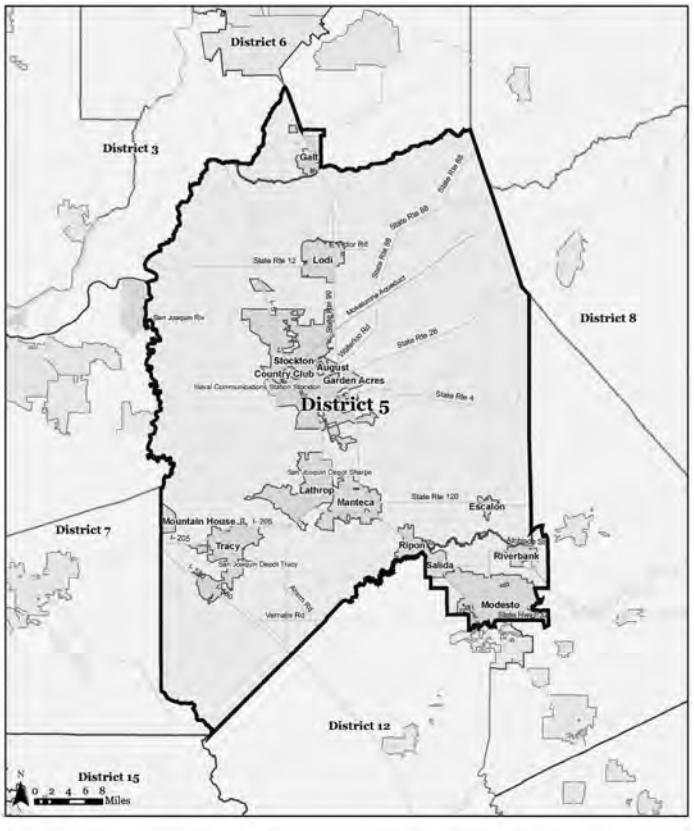
California State Senate District 1

California State Senate District 2



California State Senate District 3

California State Senate District 4



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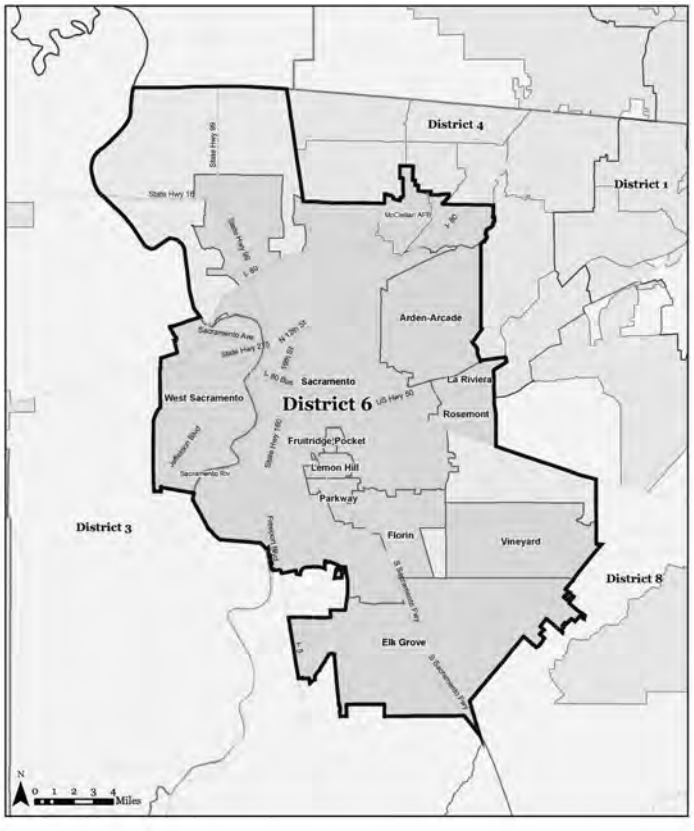

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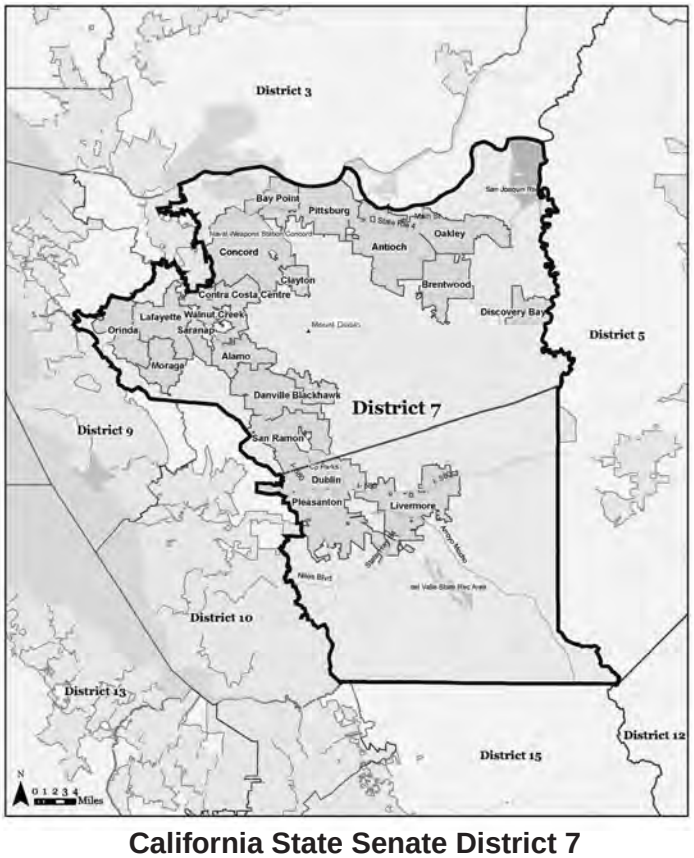
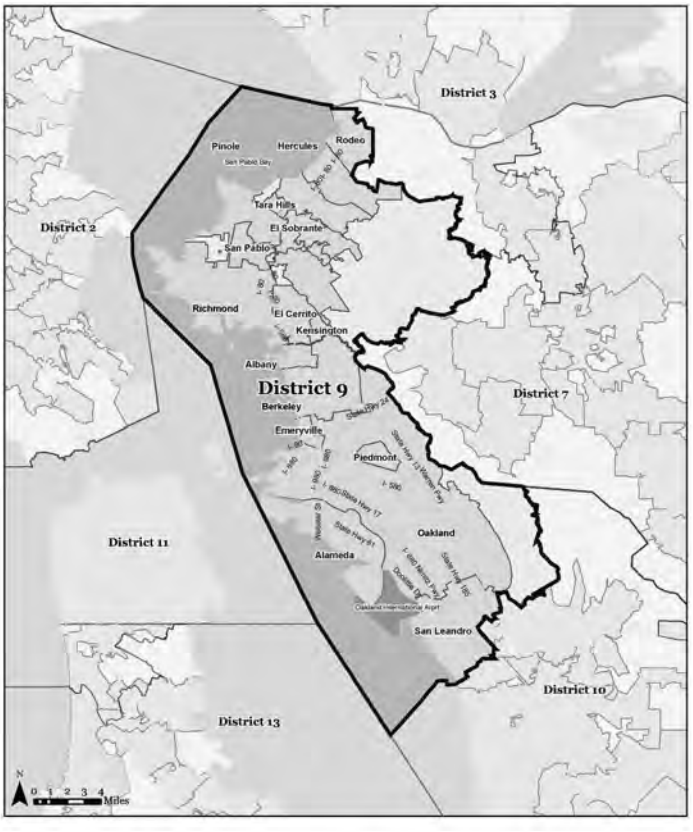


California State Senate District 7

California State Senate District 8



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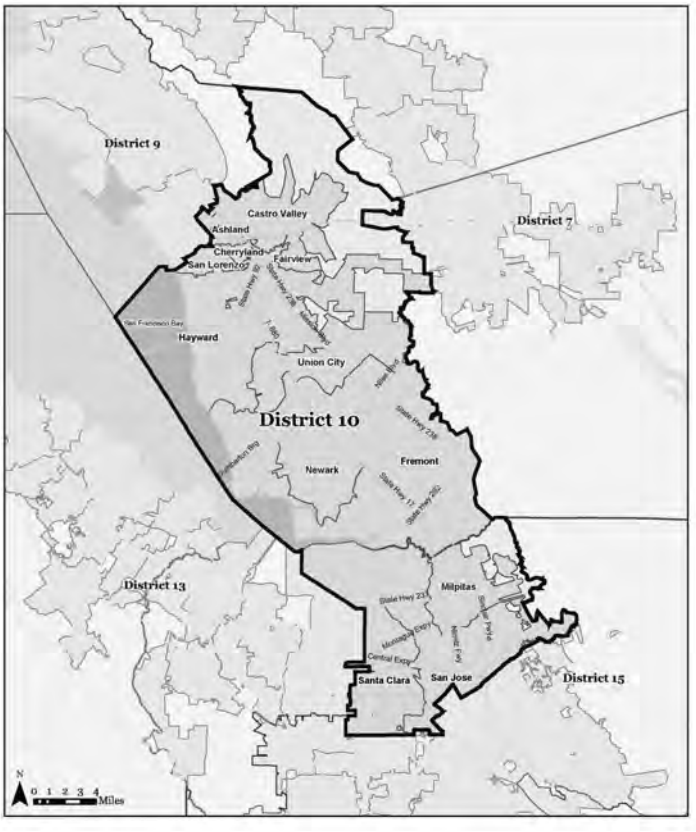

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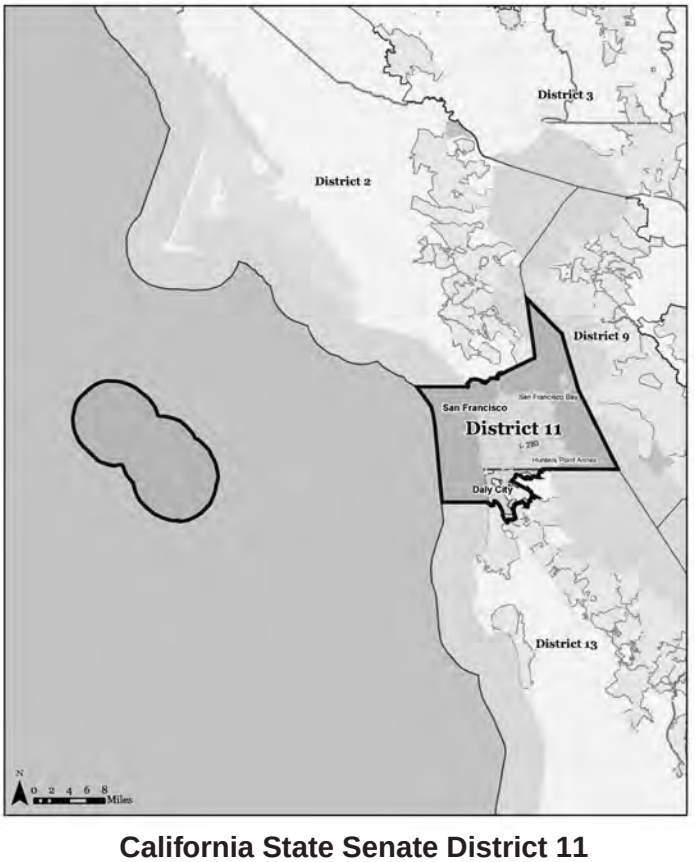
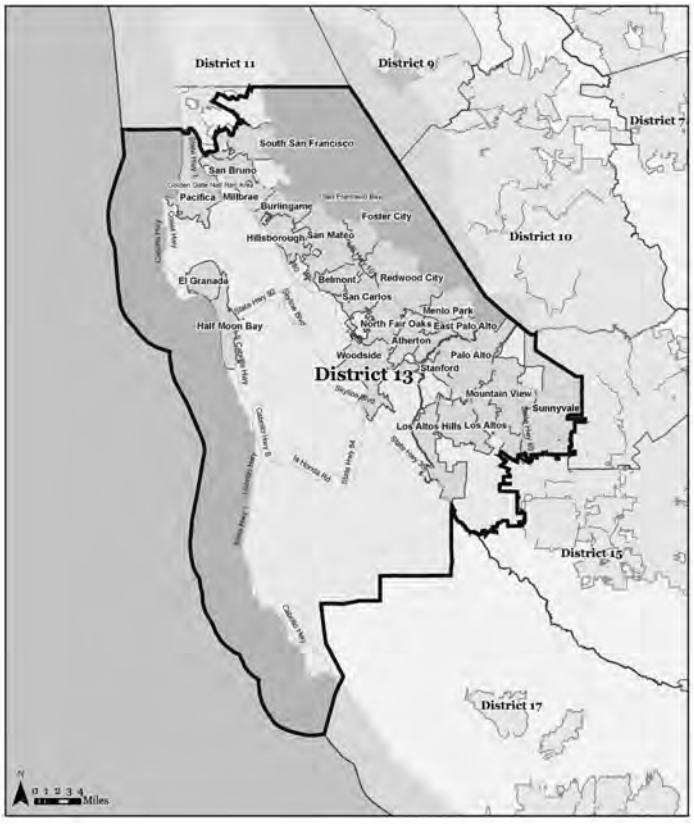


California State Senate District 11

California State Senate District 12



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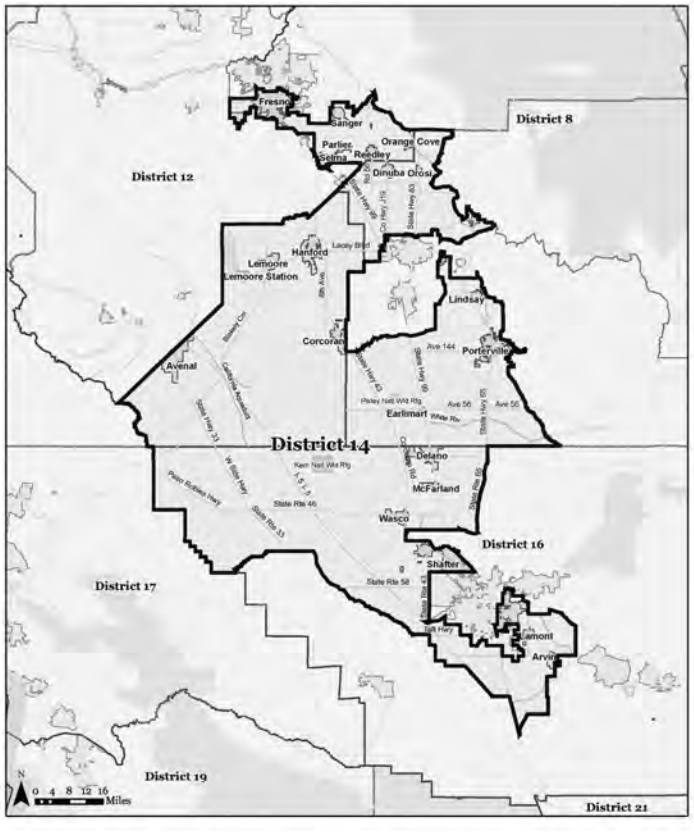
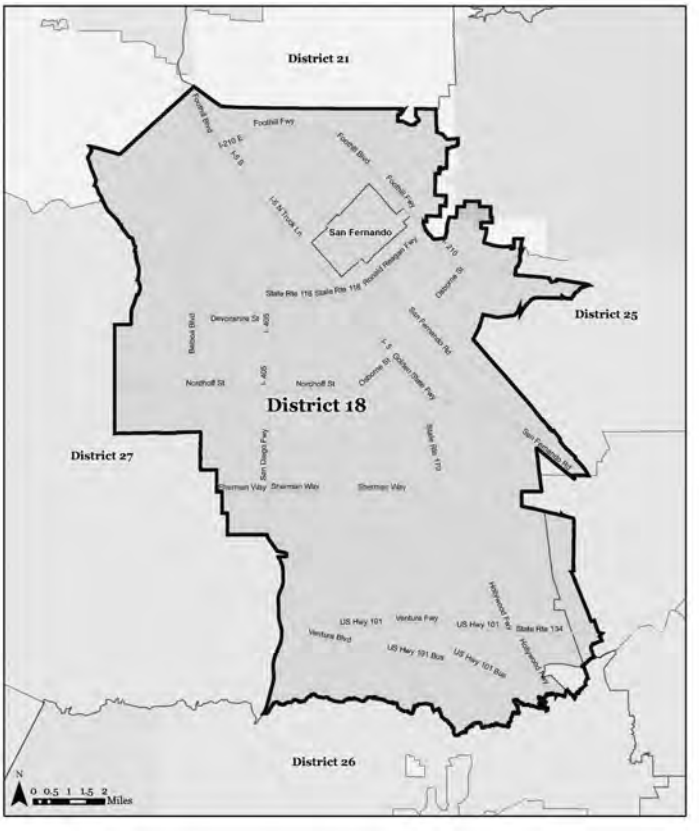


California State Senate District 14

California State Senate District 15

California State Senate District 16

California State Senate District 17



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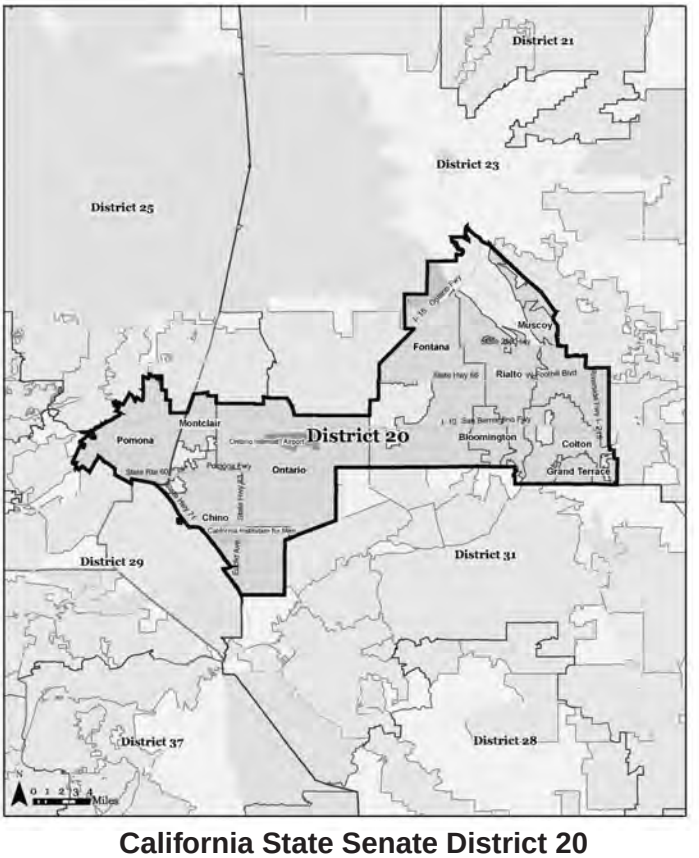
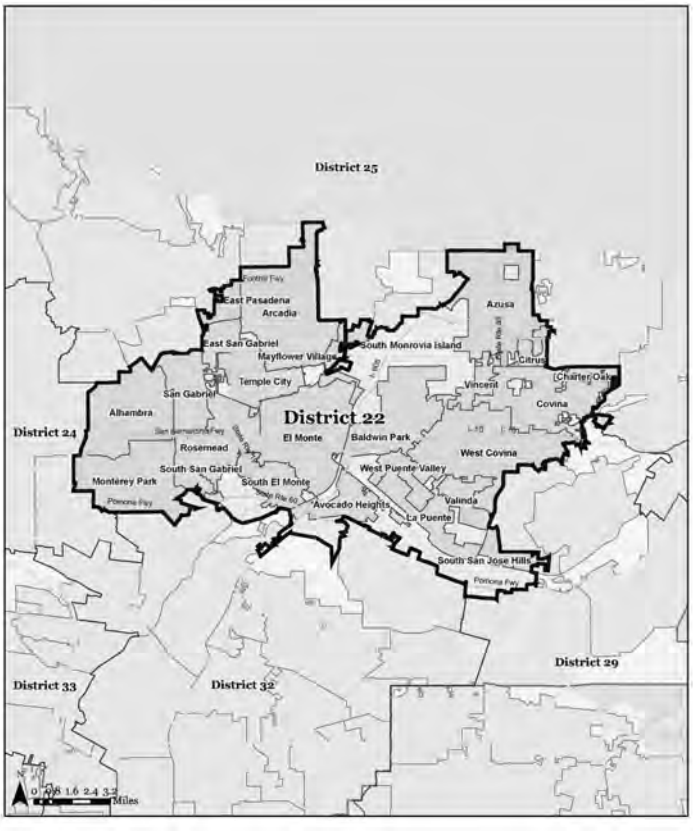


California State Senate District 20

California State Senate District 21



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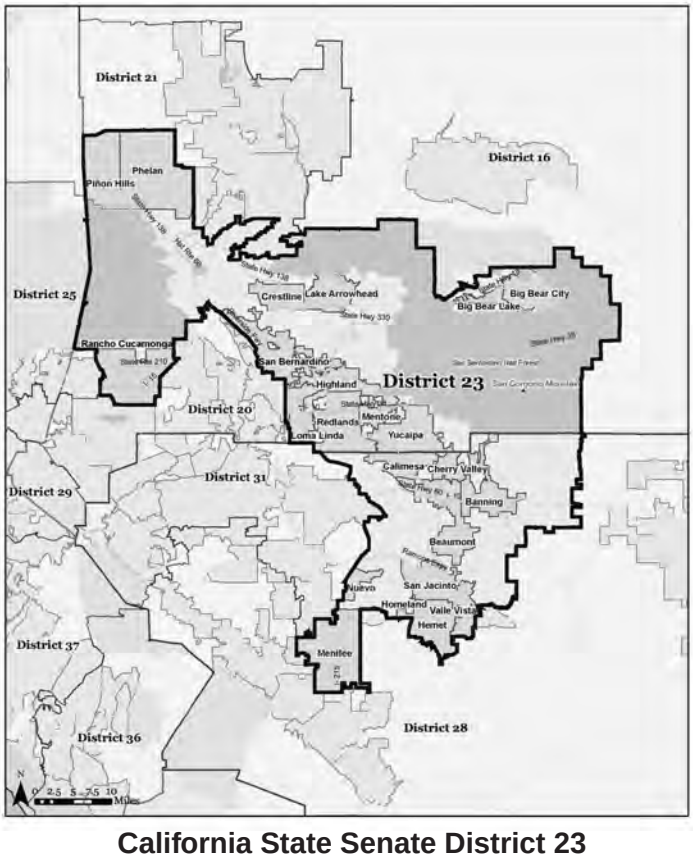

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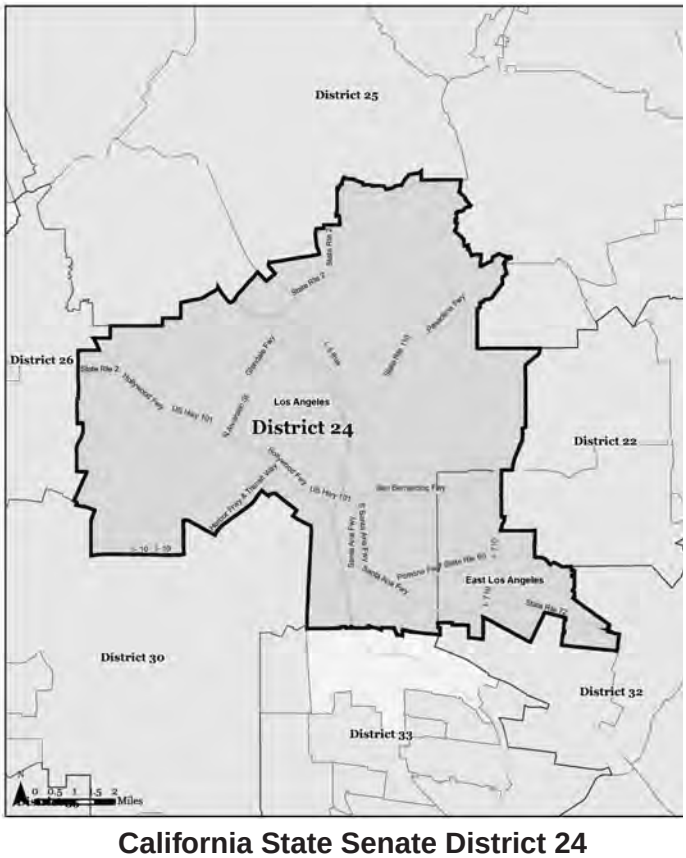

California State Senate District 24

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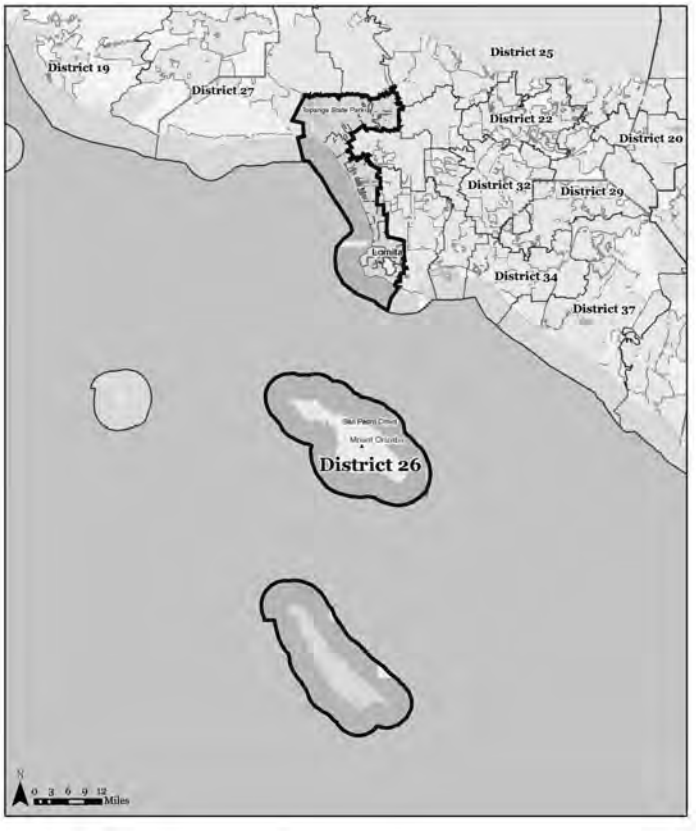
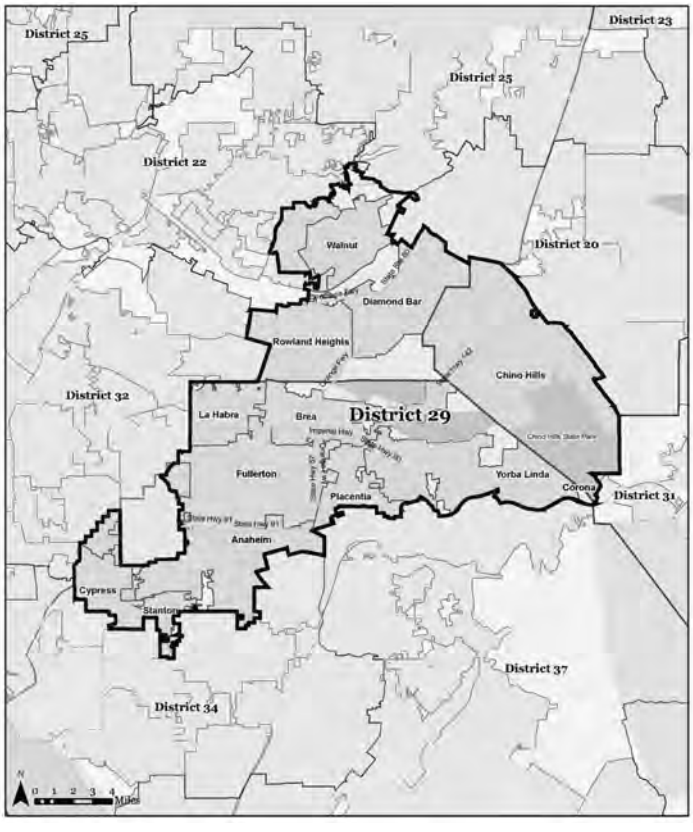
California State Senate District 25



California State Senate District 26

California State Senate District 27

California State Senate District 28



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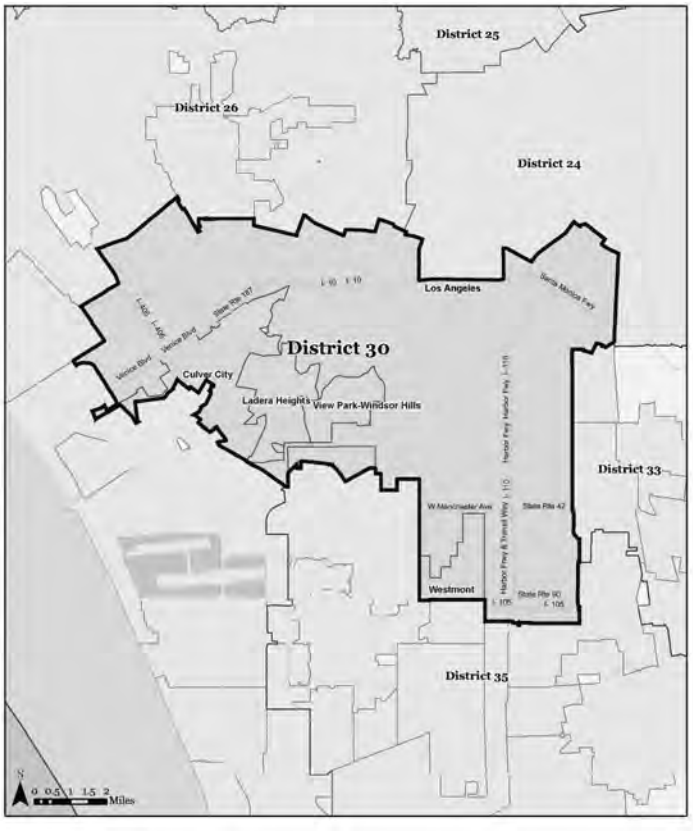

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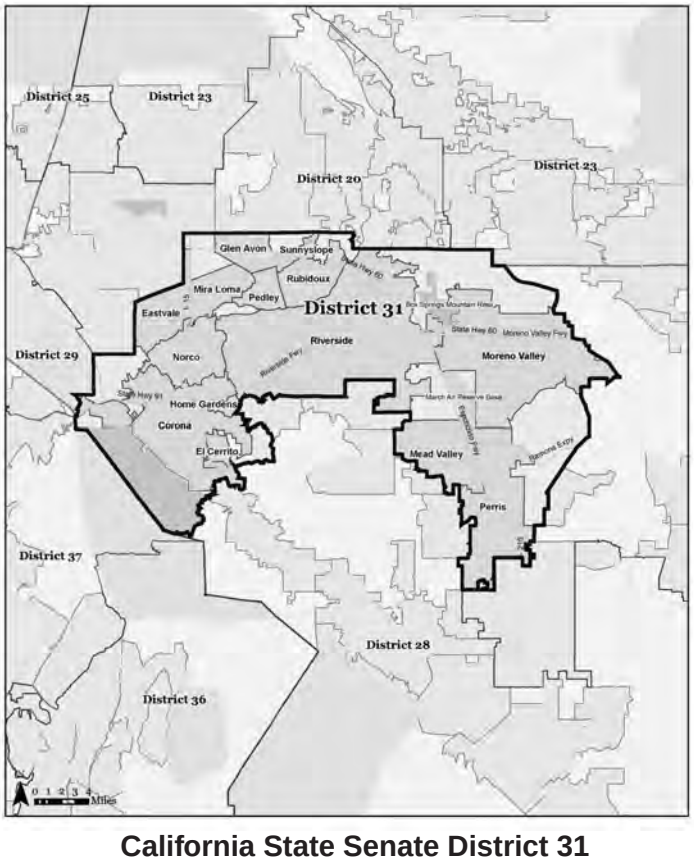

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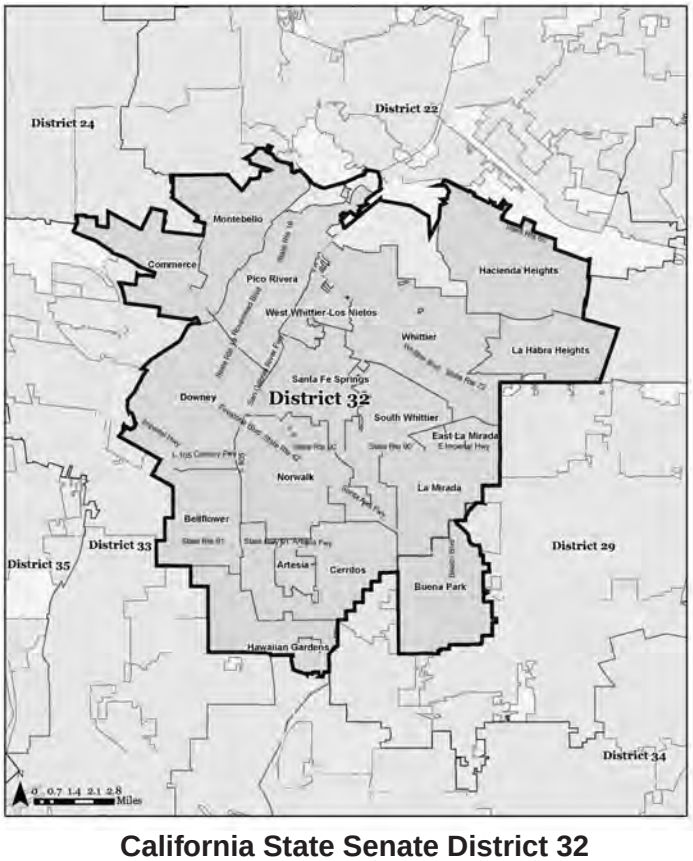

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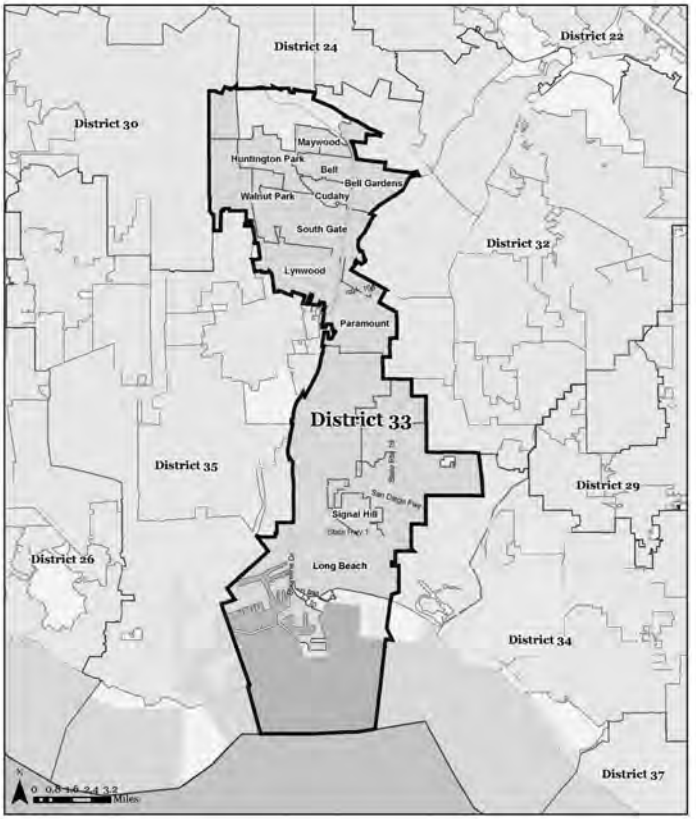

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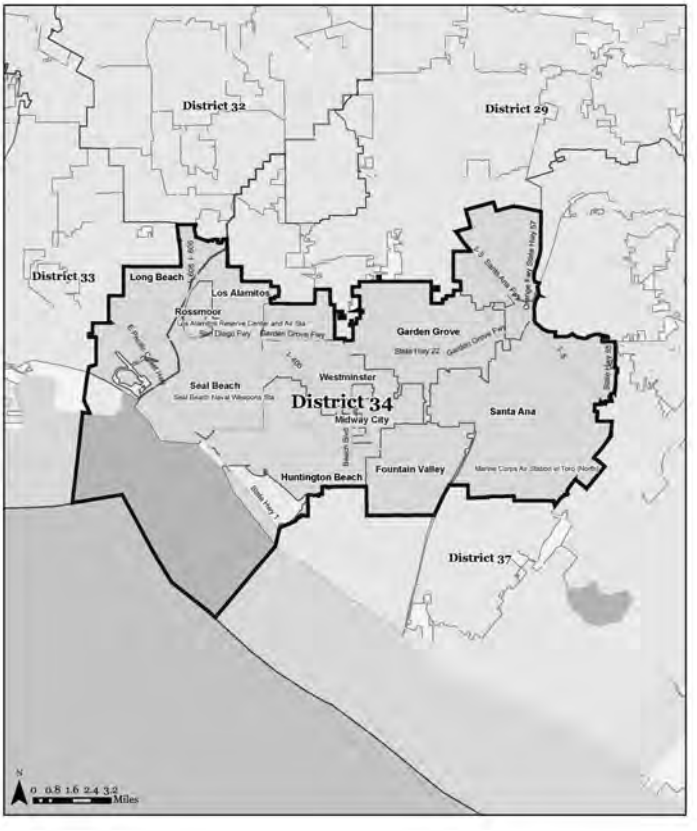

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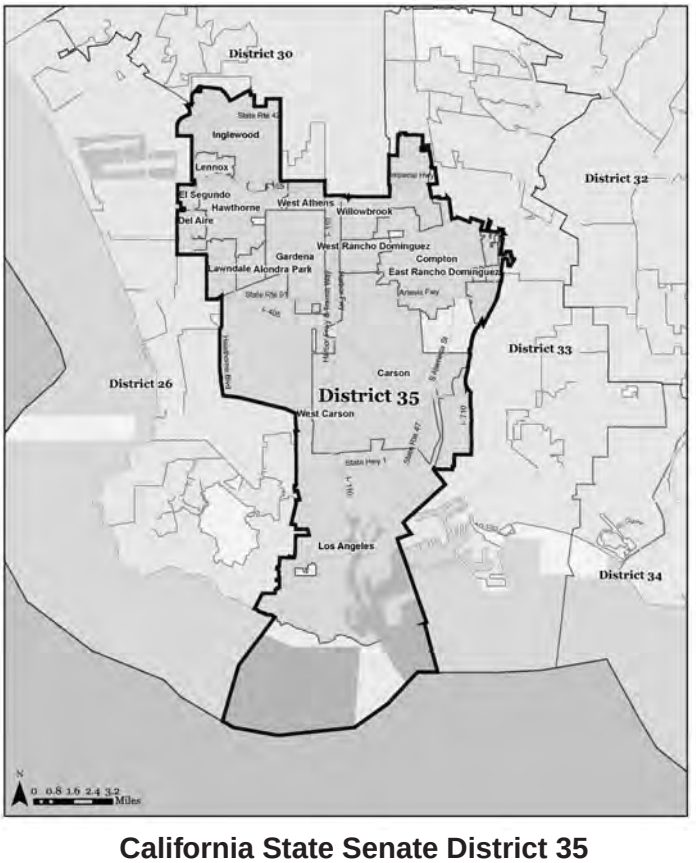

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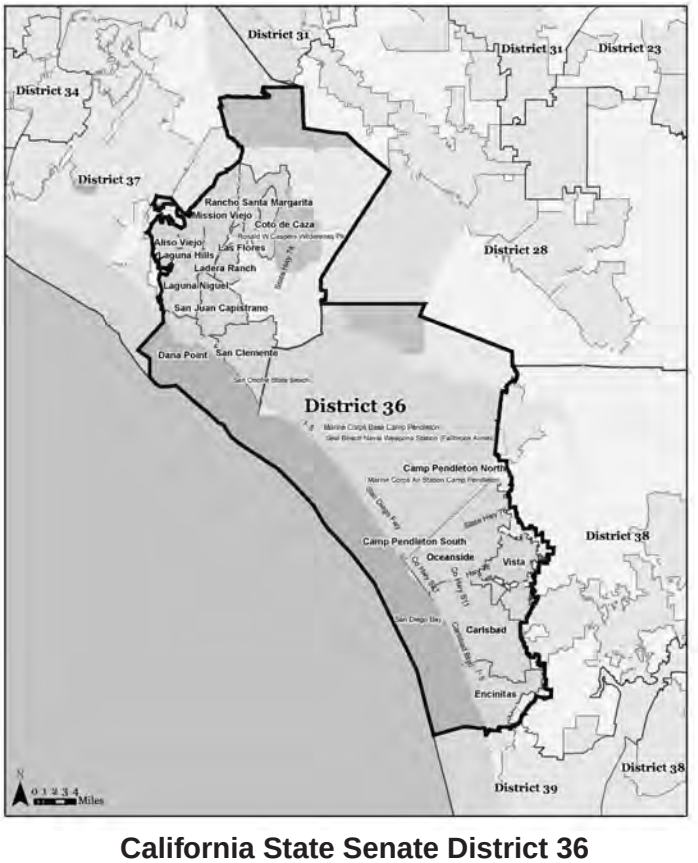

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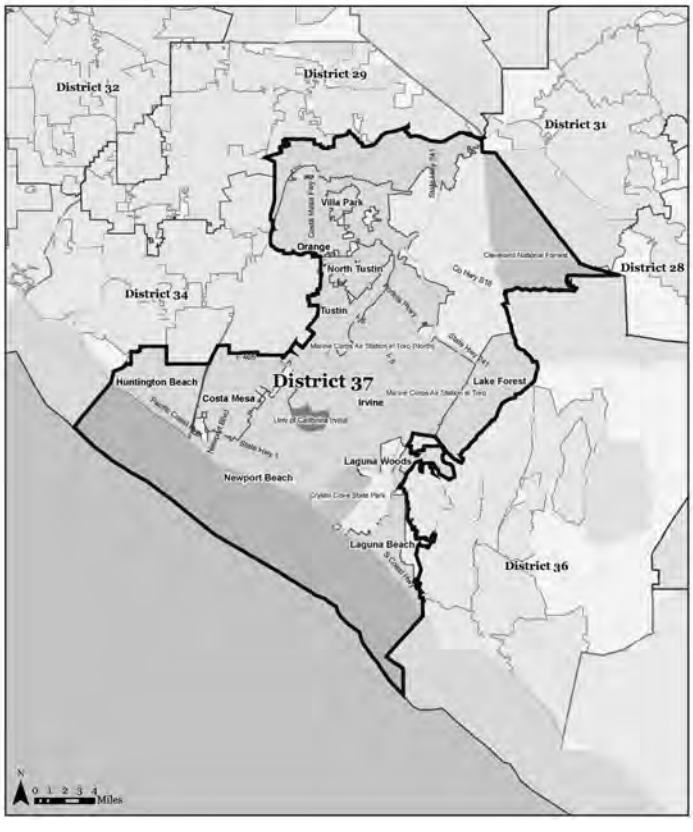

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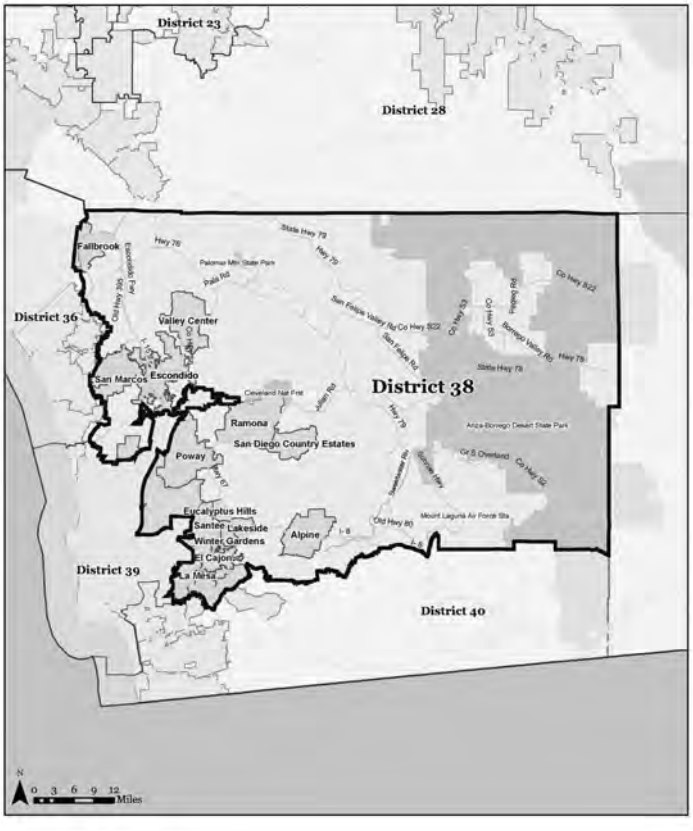

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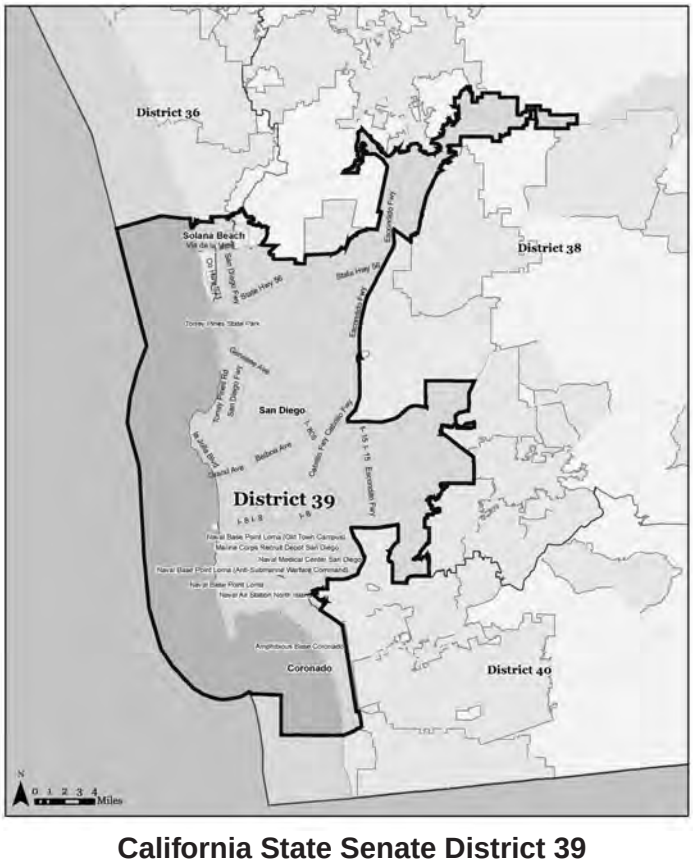

California State Senate District 39

California State Senate District 40